

4. Application of Act

This Act does not apply to proceedings commenced prior to the date of commencement of this Act.

PART II

GENERAL PRINCIPLES

5. Tort of defamation

(1) This Act relates to the tort of defamation.

(2) Except to the extent that this Act provides otherwise expressly, this Act does not affect the operation of the law relating to the tort of defamation.

6. Abolition of distinction between slander and libel

The distinction at law between slander and libel is abolished.

7. Abolition of criminal libel

Criminal libel is abolished.

8. Single publication to constitute one cause of action

A person has a single cause of action for defamation in relation to the publication of defamatory matter about the person even if more than one defamatory imputation about the person is carried by defamatory matter.

9. Defamation actionable without proof of special damage

The tort of defamation is actionable without proof of special damage.

PART III

RESOLUTION OF DEFAMATION

WITHOUT COURT PROCEEDINGS

10. Application of Part III

(1) This Part applies where a person publishes any matter that is, may be, or is alleged to be, defamatory of another person (hereinafter referred to as an “aggrieved person”).



THE DEFAMATION ACT, 2015

No. 7 of 2015

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- (e) a television network;
- (f) a person or body engaged in the making of newsreels or other motion picture news for the purposes of dissemination to the public or any section of the public;
- (g) any person whose business, or part of whose business, consists of-
 - (i) the gathering of news, or the preparation or compiling of articles or programmes of or concerning news, observations on news or current affairs, for the purposes of dissemination to the public or any section of the public; or
 - (ii) the dissemination, to the public or any section of the public, of any article or programme of or concerning news, observations on news or current affairs; and
 - (iii) all forms of publication not specified in the preceding paragraph, including by means of electronic communication;

“newspaper” means any paper containing public news or observation on news, or consisting wholly or mainly of advertisements, which is printed for sale and is published either periodically or in parts or numbers at intervals not exceeding thirty-six days;

“offer to make amends” has the meaning assigned pursuant to Part III;

“publisher” means a person who has published a matter that is, maybe, or is alleged to be defamatory of another person and “publish” and “publication”, in relation to a statement, subject to the provisions of this Act, have their meanings as understood for the purpose of the law relating to the tort of defamation.

3. Principal objects of Act

The principal objects of this Act are to —

- (a) provide effective and fair remedies for persons whose reputations are harmed by the publication of defamatory matter;
- (b) promote speedy and non-litigious methods of resolving disputes concerning the publication of defamatory matter; and
- (c) ensure that the law relating to the tort of defamation does not place unreasonable limits on freedom of expression and, in particular, on the publication and discussion of topics of public interest and importance.

(c) disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of reproducing data; and

(d) film (including microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from the device;

“electronic communication” includes a communication of information in the form of data, text, images or sound (or any combination of these) by means of guided or unguided electromagnetic energy, or both;

“Jury Act” means the Jury Act 2009 (No. 6 of 2009);

“matter” includes

(a) an article, report, advertisement or other thing communicated by means of a newspaper, magazine or other periodical;

(b) a programme, report, advertisement or other thing communicated by means of television, radio, the Internet or any other form of electronic communication;

(c) a letter, note or other writing;

(d) a picture or visual image;

(e) a word, gestural or oral utterance; and

(f) any other method of communication information;

“Minister” means the Minister responsible for Legal Affairs;

“news medium” means

(a) any newspaper, magazine or other periodical, whether in print or electronic format, issued at regular intervals and having a general circulation;

(b) a news service, whether in print or electronic format, issued at regular intervals and having a general circulation;

(c) a radio station;

(d) a television station;

THE DEFAMATION ACT, 2015

ARRANGEMENT

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SCHEDULE Parts I— III

[L.S.]



I Assent,

Rodney Williams,
Governor-General.

14th April, 2015.

ANTIGUA AND BARBUDA

THE DEFAMATION ACT, 2015

No. 7 of 2015

AN ACT to repeal the Libel and Slander Act Cap. 248 and make new provision relating to the tort of defamation, and for connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Defamation Act, 2015.

2. Interpretation

In this Act—

“defamatory matter” means any matter published by a person that is, injurious to another person’s reputation in the eyes of reasonable members of society;

“document” includes, in addition to a document in writing, any —

(a) map, plan, graph or drawing;

(b) photograph;

(3) The defence of innocent dissemination is not available to a—

- (a) person who knows, or ought reasonably to have known, that the matter was or could have been defamatory but proceeded to publish the matter anyway; or
- (b) person who fails to remove the defamatory matter from his publication or from circulation promptly after it has been brought to his attention.

(4) A person who takes reasonable and effective steps to remove defamatory matter from his publication or from circulation will not be subsequently liable for the republication of the defamatory matter after taking the steps.

(5) For the purpose of subsection (1), a person is a subordinate distributor of defamatory matter if the person—

- (a) was not the first or primary distributor of the matter;
- (b) was not the author or originator of the matter; and
- (c) did not have any capacity to exercise editorial control over the content of the matter (or over the publication of the matter) before it was first published.

(6) Without limiting subsection (5) (a), a person is not the first or primary distributor of matter merely because the person was involved in the publication of the matter in the capacity of a—

- (a) bookseller, newsagent or news vendor;
- (b) librarian;
- (c) wholesaler or retailer of the matter;
- (d) provider of postal or similar services by means of which the matter is published;
- (e) broadcaster of a live programme (whether on television, radio or otherwise) containing the matter in circumstances in which the broadcaster has no effective control over the person, who makes the statements that compromise the matter;
- (f) provider of services consisting of—
 - (i) the processing copying distributing or selling of any electronic medium in or on which the matter is recorded; or

(2) The provisions of this Part may be used instead of the provisions of any rules of court or any other law in relation to payment into court or offers of compromise, or offers to settle.

(3) Nothing in this Part prevents a person from making or accepting a settlement offer in relation to the publication of any matter in question otherwise than in accordance with the provisions of this Part.

11. Offer to make Amends

(1) The publisher of any matter in question may make an offer to make amends to the aggrieved person.

(2) The offer to make amends may be—

- (a) in relation to the matter in question generally; or
- (b) limited to any particular defamatory imputations that the publisher accepts that the matter in question carries.

(3) If two or more persons published the matter in question, an offer to make amends by one or more of them does not affect the liability of the other person or other persons.

(4) Subject to section 13, an offer to make amends is taken to have been made without prejudice, unless the offer provides otherwise.

(5) An offer to make amends—

(a) shall be understood to mean an offer—

- (i) to publish or join in the publication of a suitable correction of the matter in question and a sufficient apology to the aggrieved person; or
- (ii) where copies of the matter in question have been distributed by or with the knowledge of the person making the offer, to take steps as are reasonably practicable on his part for notifying persons to whom copies have been so distributed that the matter in question is alleged to be defamatory of the aggrieved person;

(b) may include the payment of a specified sum or an offer of compensation; and

(c) may be accepted or refused by or on behalf of the aggrieved person.

(6) An offer to make amends—

- (a) shall be expressed to be an offer to make amends;
- (b) shall be in writing; and
- (c) shall be accompanied by a voluntary declaration setting out-
 - (i) particulars of the facts on which the publisher relies to show that the publication of the matter in question is innocent in relation to the aggrieved person; and
 - (ii) particulars of any correction or apology made or steps taken before the date of the offer, upon which the publisher relies for the purposes of subsection (5); and
- (d) may be accepted in writing by or on behalf of the aggrieved person.

(7) The voluntary declaration referred to in subsection (6)(c) shall be made-

- (a) by the publisher;
- (b) where the publisher is a body corporate, by an officer of the body having knowledge of the body having knowledge of the facts; or
- (c) where, upon facts appearing in the voluntary declaration it is impractical to comply with paragraph (a) or (b), by a person authorized by the publisher and having knowledge of the facts.

(8) An offer to make amends may not be made by a person after serving a defence in proceedings for defamation brought against him by the aggrieved person in respect of the matter in question.

(9) An offer to make amends may be withdrawn, in writing, at any time before it is accepted in writing by or on behalf of the aggrieved person, and a renewal of an offer which has been withdrawn shall be made in writing and treated as a new offer.

12. Effect of accepting offer of amends

(1) In an offer to make amends duly made under section 11 is accepted in writing, by or on behalf of the aggrieved person, no proceedings for defamation in respect of the matter in question may be brought or continued by him against the person making the offer, but he is entitled to enforce the offer to make amends in accordance with the provisions of this section.

(2) Any question as to the terms of the offer or what is to be done in fulfilment of the offer shall, in default of agreement between the parties, be referred to and determined by a Judge in Chambers, whose decision shall be final.

(2) Subject to subsection (3) and (4), in determining whether the defendant has shown the matters mentioned in subsection (1), the court must have regard to all the circumstances of the case.

(3) If the statement complained of was, or formed part of, an accurate and impartial account of a dispute to which the claimant was a party, the court must in determining whether it was reasonable for the defendant to believe that publishing the statement was in the public interest, disregard any omission of the defendant to take steps to verify the truth of the imputation conveyed on it.

(4) In determining whether it was reasonable for the defendant to believe that publishing the statement complained of was in the public interest, the court must make such allowance for editorial judgment as it considers appropriate.

(5) For the avoidance of doubt, the defence under this section may be relied upon irrespective of whether the statement complained of is a statement of fact or a statement of opinion.

23. Defence of innocent dissemination

(1) It is a defence to the publication of defamatory matter if the defendant proves the following, that is to say, that—

- (a) the defendant published the matter merely in the capacity of a distributor who is subordinate to the publisher of the matter alleged to be defamatory, or as an employee or agent of the distributor.
- (b) the defendant neither knew, nor ought reasonably to have known, that the matter was defamatory; and
- (c) the defendant's lack of knowledge was not due to any negligence on the part of the defendant.

(2) The defence of innocent dissemination is not available to a—

- (a) defendant who published the matter merely in the capacity of a distributor who is subordinate to the publisher of the matter alleged to be defamatory, or as an employee or agent of the distributor;
- (b) defendant who neither knew, nor ought reasonably to have know, that the matter was defamatory; and
- (c) defendant whose lack of knowledge was not due to any negligence on the part of the defendant.

(2) It is not a defence to a claim in defamation that the circumstances of the publication of the matter complained of were such that the person defamed was not likely to suffer harm.

20. Defence of truth

(1) In proceedings for defamation, the defence known before the commencement of this Act as the defence of justification shall, in relation to an action for defamation brought after the commencement of this Act, be known as the defence of truth.

(2) In proceedings for defamation based on only some of the matter contained in a publication, the defendant may allege and prove any facts contained in the whole of the publication.

(3) In proceedings for defamation, a defence of truth shall succeed if—

- (a) the defendant proves that the imputations contained in the matter that is the subject of the proceedings were true, or not materially different from the truth; or
- (b) where the proceedings are based on all or any of the matter contained in a publication taken as a whole was in substance true, or was in substance not materially different from the truth, if the words not proven to be true do not materially injure the claimant's reputation having regard to the truth of the remaining imputations.

21. Defence of fair comment; truth of assertions

(1) In an action for defamation in respect of words, including or consisting of expression of opinion, a defence of fair comment shall not fail only because the defendant has failed to prove the truth of every relevant assertion of fact relied on by him as a foundation for the opinion, provided that such of the assertions as are proved to be true are relevant and afford a foundation for the opinion.

(2) Nothing in this section affects the liability of the defendant in an action for defamation for the acts of his employees.

22. Publication on a matter of interest

(1) It is a defence to an action for defamation for the defendant to show that—

- (a) The statement complained of was, or formed part of, a statement on a matter of public interest; and
- (b) The defendant reasonably believed that publishing the statement complained of was in the public interest.

(3) The aggrieved person may apply to a judge—

- (a) for an order that the other party comply with the terms of the offer, as agreed or determined by the Judge in Chambers, with respect to the correction and apology and any other steps to be taken in fulfilment of the offer; and
- (b) where applicable, for judgement for the amount of any compensation agreed.

(4) The power of the Judge in Chambers to make orders as to costs in defamation proceedings includes the power to order the payment by the person making the offer to the aggrieved person of costs on an indemnity basis and of any expenses reasonably incurred or to be incurred by the aggrieved person in consequence of the matter in question.

(5) Notwithstanding that proceedings are not brought by an aggrieved person, a Judge in Chambers may, on an application by the aggrieved person, make an order for the payment of the costs and expenses as could have been made in the proceedings.

(6) An order made under subsection (5) shall be consistent with the terms of the offer.

(7) The acceptance of an offer to make amends made by one person does not affect any cause of action of the aggrieved person against any other person in respect of the same publication.

13. Effect of not accepting of to make amends

A defendant in proceedings for defamation may rely in mitigation of damages on an offer to make amends.

APOLOGY

14. Apology admissible in evidence in mitigation of damages

In any action for defamation, the defendant, in mitigation of damages, may make, or offer, an apology to the claimant for the defamation—

- (a) before the commencement of the action; or
- (b) where the action was commenced before there was an opportunity of making or offering the apology, as soon after the commencement of the action as he had an opportunity of doing so.

15. Effect of apology on liability for defamation

(1) An apology made by or on behalf of a person in connection with any defamatory matter alleged to have been published by the person—

(a) does not constitute an express or implied admission of fault or liability by the person in connection with that matter; and

(b) is not relevant to the determination of fault or liability in connection with that matter.

(2) Evidence of an apology made by or on behalf of a person in connection with any defamatory matter alleged to have been published by the person is not admissible as evidence of the fault or liability of the person in connection with that matter.

(3) Nothing in this section limits the operation of section 30.

PART IV

COURT PROCEEDINGS

16. Election for defamation proceedings to be tried by a jury

(1) Unless the court orders otherwise, a claimant or defendant in defamation proceedings may elect for the proceedings to be tried by jury.

(2) An election shall be-

(a) made at the time and in the manner prescribed by the rules of court for the court in which the proceedings are to be tried; and

(b) accompanied by the fee (if any) prescribed by the regulations made under any applicable rules of court for the requisition of a jury in that court.

(3) Without limiting subsection (1), a court may order that defamation proceedings are not to be tried by jury if-

(a) the trial requires a prolonged examination of records; or

(b) the trial involves any technical, scientific or other issue that cannot be considered and resolved by a jury conveniently.

(4) Without limiting subsection (1), a court may order that defamation proceedings are to be tried by a special jury where, in the opinion of the judge, special expertise is required and where relevant, the Jury Act shall apply in relation to the special jury.

17. Roles of judges and juries in defamation proceedings

(1) This section applies to defamation proceedings that are tried by jury.

(2) In defamation proceedings that are tried by jury, the jury is to determine whether the defendant has published defamatory matter about the claimant and, if so, whether any defence raised by defendant has been established.

(3) If the jury finds that the defendant has published defamatory matter about the claimant and that no defence has been established, the judge and not the jury is to determine the amount of damages, if any, that should be awarded to the claimant and all unresolved issues of fact and law relating to the determination of that amount.

(4) If the proceedings relate to more than one cause of action for defamation, the jury shall give a single verdict in relation to all causes of action on which the claimant relies, unless the judge orders otherwise.

(5) Nothing in this section—

(a) affects any law or practice relating to special verdicts;

(b) requires or permits a jury to determine any issue that, at law, is an issue to be determined by the judge; or

(c) affects the power of a judge, upon the application of either party to any civil case where in issue in fact shall have been joined, pursuant to the Jury Act.

18. Leave required for further proceedings in relation to publication of same defamatory matter

If a person has brought defamation proceedings for damages (whether in Antigua and Barbuda or elsewhere) against any person in relation to the publication of any matter, the person shall not bring further defamation proceedings for damages against the same defendant in relation to the same or any other publication of the same or like matter, except with the leave of the court in which the further proceedings are to be brought.

PART V

DEFENCES

19. Scope of defences under law not limited

(1) A defence under this Part is additional to any other defence or exclusion of liability available to the defendant apart from this Act and does not of itself vitiate, limit or abrogate any other defence or exclusion of liability.

defamatory, and did not reasonably believe there was a good defence to any action brought under the agreement.

36. Limitation period for action

An action for defamation shall be brought within three years from the date that the defamatory matter was first published.

37. Regulations

The Minister may make regulations for the purposes of giving effect to the provisions of this Act.

38. Repeal

The Libel and Slander Act Cap. 248 is hereby repealed.

39. Conflict of enactments

Where there is a conflict between the provisions of this Act and another enactment, the provisions of this Act shall prevail to the extent of the inconsistency.

- (ii) the operation of, or the provision of any equipment, system or service, by means of which the matter is transmitted, or made available, by another person over whom the operator or provider has no effective control; or
- (g) an operator of, or a provider of access to, a communications system by means of which the matter is transmitted, or made available, by another person over whom the operator or provider had no effective control; or
- (h) a person who, on the instructions or at the direction of another person, prints or produces, reprints or reproduces, or distributes the matter for or on behalf of that other person.

24. Defence of absolute privilege

(1) It is a defence to a defamatory matter for the defendant to prove that the matter was published on occasion of absolute privilege.

(2) In this section, a defamatory matter is published on occasion of absolute privilege if the matter is —

- (i) published in either House of Parliament by a member of either House;
- (ii) contained in a report made by a member of either House and is produced by or on the authority of either House;
- (iii) contained in a judgment of a court;
- (iv) made by a judge, or other person, performing a judicial function;
- (v) made by a party, witness, legal representative or juror in the course or proceedings presided over by a judge, or other person performing a judicial function;
- (vi) made in the course of proceedings involving the exercise of limited functions and powers of a judicial nature in accordance with the Commission of Inquiry Act Cap. 91, where the statement is connected with those proceedings;
- (vii) a fair and accurate report of proceedings publicly heard before, or decisions made public by any court or arbitral tribunal, established by an international agreement to which Antigua and Barbuda is a party;
- (viii) a fair and accurate copy of extract from or summary of any document circulated to members of a listed company, which relates to appointment, resignation, retirement or dismissal of a director of or auditor of a company;

- (ix) a fair and accurate report of proceedings of a scientific or academic conference or a copy of the extract from a summary of a matter published by such conference;
- (x) a fair and accurate report or summary of, copy of or extract from any adjudication report; statement or notice issued by a body, officer or other persons designated for the purposes of this paragraph by order of the Government;
- (xi) contained in a report of any such court, Commission of Inquiry or tribunal;
- (xii) made in the course of an inquest by a Coroner or contained in decision made or verdict given at or during such inquest;

(3) In this section —

“Court” includes—

- (a) any tribunal or body established under the law of any country exercising the judicial power of the State;
- (b) any international tribunal established by the United Nations Security Council; and
- (c) any international tribunal deciding matters in dispute between States.

25. Defence of qualified privilege

(1) Unless the publication is proved to be made with malice, subject to the provision of this section, the publication in a news medium of any report or other matter mentioned in the Schedule shall be privileged.

(2) In an action for defamation in respect of the publication of any report or matter mentioned in Part II of the Schedule, the provisions of this section shall not be a defence if it is proved that the defendant has been requested by the claimant to publish in the news medium in which the original publication was made a reasonable letter or statement by way of explanation or contradiction or neglected to do so, or has done so in a manner that is not adequate or not reasonable having regard to all the circumstances.

(3) It shall be a defence to a defamation action for the defendant to prove that the statement was published to a person whom the defendant believed upon reasonable grounds that the said person has such a duty of interest.

(4) This section is not to be construed as—

- (a) protecting the publication of any matter the publication of which is prohibited by law, or

33. Court may make order as to content, etc. of correction

(1) A court may make an order pursuant to section 30(1) in relation to—

- (a) the content of the correction;
- (b) the time of publication of the correction;
- (c) the prominence to be given to the correction in the particular medium in which it is published; and
- (d) any other matter that the court thinks appropriate.

(2) In making an order under subsection (1), the court shall have regard—

- (a) to the context and circumstances in which the matter that is the subject of the proceedings was published, including the manner and extent of publication; or
- (b) in the case of matter published in a periodical, or in the course of a regular activity or presentation (including audio or video communication by electronic means), to the proper interest of the defendant in maintaining the style and character of the periodical, activity or presentation.

PART VII

MISCELLANEOUS

34. Proof of publication

(1) If a document appears to be printed or otherwise produced by means adapted for the production of numerous copies and there is in the document a statement to the effect that the document is printed, produced, published or distributed by or for a particular person, the statement is evidence in defamation proceedings that the document was so printed, produced, published or distributed.

(2) Evidence that a number or part of a document appearing to be a periodical is printed, produced, published or distributed by or for a particular person is evidence in defamation proceedings that a document appearing to be another number or part of the periodical was so printed, produced, published or distributed.

35. An agreement for indemnifying any person against

An agreement for indemnifying any person against liability for libel in respect of the publication of any matter is not unlawful unless at the time of the publication the person knew that the matter is

32. Court may make correction order

(1) In any proceedings for defamation, the claimant may seek an order from the court that the defendant publish or cause to be published a correction of the matter that is the subject of the proceedings (hereinafter referred to as a “correction order”); and the court may make the order.

(2) Subject to subsection (5), the remedy of a correction order is available instead of damages.

(3) Where, in any proceedings for defamation in which the claimant seeks a correction order—

- (a) the court orders that the defendant publishes or causes to be published a correction of the matter that is the subject of the proceedings; and
- (b) the defendant publishes or causes to be published a correction in accordance with the terms of that order—
 - (i) the claimant shall be awarded attorney-at-law and client costs against the defendant in the proceedings, unless the court orders otherwise;
 - (ii) the claimant shall be entitled to no other relief or remedy against that defendant in those proceedings; and
 - (iii) the proceedings, so far as they relate to that defendant, shall be deemed to be finally determined by virtue of this section.

(4) Subsection (5) applies in any proceedings for defamation in which the claimant seeks a correction order and—

- (a) the court orders that the defendant publish or cause to be published a correction of the matter that is the subject of the proceedings; and
- (b) the defendant fails to publish or cause to be published a correction in accordance with the terms of that order.

(5) If the court gives final judgment in the proceedings in favour of the claimant—

- (a) the failure to publish or cause to be published a correction in accordance with the terms of the order shall be taken into account in the assessment of any damages awarded against the defendant; and
- (b) unless the court orders otherwise, the claimant shall be awarded attorney-at-law and client costs against the defendant in the proceedings.

any matter which is not of public concern and the publication of which is not for the public benefit; or

- (b) limiting or abridging any privilege subsisting before the date of commencement of this Act (otherwise than by the virtue of any enactment repealed by this Act).

26. Operators of websites

(1) This section applies where an action for defamation is brought against the operator of a website in respect of a statement posted on the website.

(2) It is a defence for the operator to show that it was not the operator who posted the statement on the website.

(3) The defence is defeated where a claimant shows that—

- (a) it was not possible for the claimant to identify the person who posted the statement;
- (b) the claimant gave the operator notice of complaint in relation to the statement;
- (c) the operator failed to respond to the notice of complaint in accordance with any provision contained in the regulations; or
- (d) the operator acted with malice in relation to the statement.

(4) For the purposes of subsection (3)(a), it is possible for a claimant to identify a person only if the claimant has sufficient information to bring proceedings against the person.

(5) The defence set out in this section is not defeated by reason only of the fact that the operator of the website moderates the statements posted on it by other persons.

(6) Regulations may be made by the Minister to—

- (a) make provision as to the action required to be taken by an operator of a website in response to a notice of complaint (which may include an action relating to the identity or contact details of the person who posted the statement and action relating to its removal);
- (b) make provision specifying a time limit for taking any such action;
- (c) make provision conferring on the court a discretion to treat action taken after the expiry of a time limit as having been taken before the expiry;

(d) make any other provision for the purposes of this section.

(7) Subject to any provision made by virtue of subsection (8), a notice of complaint is a notice which—

- (a) specifies the complainant’s name;
- (b) sets out the statement concerned and explains why it is defamatory of the complainant;
- (c) specifies where on the website the statement was posted; and
- (d) contains such other relevant information as may be specified.

(8) Regulations made by the Minister may also make provision on the circumstances in which a notice which is not a notice of complaint, for such a notice to be treated as a notice of complaint for the purposes of this section or any provision made thereunder, and for different circumstances where necessary.

PART VI

REMEDIES AND DAMAGES

27. Damages to bear rational relationship to harm

In determining the amount of damages to be awarded in any defamation proceedings, the court shall ensure that there is an appropriate and rational relationship between the harm sustained by the claimant and the amount of damages awarded.

28. State of mind of defendant generally not relevant to awarding damages

In awarding damages for defamation, the court shall disregard the malice or other state of mind of the defendant at the time of the publication of the defamatory matter to which the proceedings relate or at any other time, except to the extent that the malice or other state of mind affects the harm sustained by the claimant.

29. Factors in mitigation of damages

(1) Evidence is admissible on behalf of the defendant, in mitigation of damages for the publication of defamatory matter, that—

- (a) the claimant has suffered no harm and is unlikely to suffer harm;

- (b) the defendant has made an apology to the claimant about the publication of the defamatory matter pursuant to section 14;
- (c) the defendant has published a correction of the defamatory matter;
- (d) the claimant has already recovered damages for defamation in relation to any other publication of the matter having the same meaning or effect as the defamatory matter;
- (e) the claimant has recovered damages, or has brought actions for damages, for defamation in respect of the publication of the defamatory matter to the same effect as the defamatory matter on which the action is founded, or has received or agreed to receive compensation in respect of the publication; or
- (f) the claimant has received or agreed to receive compensation for defamation in relation to any other publication of matter having the same meaning or effect as the defamatory matter.

(2) Nothing in subsection (1) operates to limit the matters that can be taken into account by a court in mitigation of damages.

30. Damages for multiple causes of action may be assessed as single sum

If the court in defamation proceedings finds for the claimant as to more than one cause of action, the judge may assess damages in a single sum.

31. Declaration

(1) In any proceedings for defamation, the claimant may seek a declaration that the defendant is liable to the claimant in defamation.

(2) The remedy of a declaration and the award of costs is available instead of damages where the claimant seeks only a declaration that the defendant is liable to the claimant in defamation.

(3) Where, in any proceedings for defamation—

- (a) the claimant seeks only a declaration and costs; and
- (b) the court makes the declaration sought,

the claimant shall be awarded attorney-at-law- and client costs against the defendant in the proceedings, unless the court orders otherwise.

SCHEDULE

(Section 25)

QUALIFIED PRIVILEGE

PART I

Statements Privileged Without Need for Publication of Explanation or Contradiction

1. A fair and accurate report of proceedings in public of a legislature anywhere in the world.
2. A fair and accurate report of proceedings in public before a court anywhere in the world.
3. A fair and accurate report of proceedings in public of a person appointed to hold a public inquiry by a government or legislature anywhere in the world.
4. A fair and accurate report of proceedings in public anywhere in the world of an international organization or an international conference.
5. A fair and accurate copy of or extract from any register or other document required by law to be open to public inspection.
6. A notice or advertisement published by or on the authority of a court, or of a judge or officer of a court, anywhere in the world.
7. A fair and accurate copy of or extract from matter published by or on the authority of a government or legislature anywhere in the world.
8. A fair and accurate copy of or extract from matter published anywhere in the world by an international organization or an international conference.
9. A fair and accurate report of any proceedings in public of an international court anywhere in the world.

PART II

Statements Privileged Subject to Publication of Explanation or Contradiction

10. A fair and accurate copy of or extract from a notice or summary of a notice or other matter issued for the information of the public by or on behalf of

(a) a legislature or government anywhere in the world;

- (b) any authority performing governmental functions anywhere in the world;
- (c) an international organization or international conference.

11. A fair and accurate copy of or extract from a document made available by a court anywhere in the world or by a judge or officer of that court.

12. A fair and accurate report of proceedings at a press conference anywhere in the world for the discussion of a matter of public interest.

13. A fair and accurate report of the proceedings at any public meeting held anywhere in the world, that is to say, a meeting *bonafide* and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public interest, whether the admission to the meeting is general or restricted.

14. (1) A fair and accurate report of proceedings at a general meeting of an Antiguan and Barbudan company.

(2) A fair and accurate copy of or extract from any document circulated to members of an Antiguan and Barbudan company by any enactment—

- (a) by or with the authority of the board of directors of the company;
- (b) by the auditors of the company; or
- (c) by any member of the company in pursuance of a right conferred by any enactment.

(3) A fair and accurate copy of or extract from any document circulated to members of an Antiguan and Barbudan company which relates to the appointment, resignation, retirement or dismissal of directors of the company.

PART III

INTERPRETATION

15. In this Schedule—

“court”—

- (a) means any tribunal or body exercising the judicial power of the state;
- (b) includes, in paragraphs 2 and 6—

- (i) any international criminal tribunal established by the Security Council of the United Nations or by an international agreement to which Antigua and Barbuda is a party;
- (ii) the International Court of Justice and any other judicial or arbitral tribunal deciding matters in disputes between states; and
- (iii) an international court;

“governmental functions” includes police functions;

“international conference” means a conference attended by representatives of two or more governments;

“international court” includes any international tribunal established by the Security Council of the United Nations or by an international agreement;

“international organization” means an organization of which two or more governments are members and includes any committee or other subordinate body of that organization;

“Antiguan and Barbudan company” means a company incorporated under the laws of Antigua and Barbuda; and

“legislature” means Parliament.

Passed by the House of Representatives on the 23rd day of February, 2015.

Passed by the Senate on the 11th day of March, 2015.

Gerald Watt, Q.C.,
Speaker.

Alicia Williams Grant,
President.

Ramona Small,
Clerk to the House of Representatives.

Ramona Small,
Clerk to the Senate.