

Defamation Act 2013

In our many submissions to the Government over a considerable period of time, we stressed that considerable concern exists within the book trade with certain provisions of the Defamation Act 1996 and in particular the weakening of the common law defence of innocent dissemination.

Although not perfect, the BA welcomes the new Defamation Act 2013 which should help prevent lawyers acting on behalf of claimants effectively 'gagging' booksellers. Under Section 1, claimants must now show that they have suffered 'serious harm' before suing for defamation. Section 10 now offers greater protection to secondary publishers, such as booksellers, by taking away the court's jurisdiction to hear an action for defamation brought against them except where it is not reasonably practicable for the claimant to bring the action against the author, editor or publisher.

Other key points of the new Act are:

- corporate bodies (trading for profit) must show that the defamatory publication has caused or is likely to cause serious financial loss;
- there are new statutory defences of responsible publication on matters of public interest, truth and honest;
- operators of websites that host user-generated content have increased protection, providing they comply with the procedure to enable the complainant to resolve disputes directly with the author of the material concerned;
- a statement in a scientific or academic journal is privileged (and therefore not capable of founding an action in defamation) if the statement: a) relates to a scientific or academic matter; b) is reviewed by the journal's editor or peers with expertise in the matter concerned; and c) is made without malice. Publication of a fair and accurate copy of, extract from or summary of the statement is also privileged;
- the single publication rule: the first publication to the public triggers the one year limitation period within which the claimant must commence a claim. Subsequent statements, unless materially different, will not affect the accrual of the claimant's cause of action

on the date of publication of the first statement;

- UK courts only have jurisdiction to hear a case against a non-domiciled defendant if it is clearly the most appropriate place in which to bring an action;
- there is no longer a presumption in favour of a jury trial.

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