

I assent.

(L.S.)

**MARIE-LOUISE
COLEIRO PRECA
President**

24th April, 2018

ACT No. XI of 2018

AN ACT to provide for the updating of the regulation of media and defamation matters and for matters consequential or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. (1) The short title of this Act is the Media and Defamation Act, 2018. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for justice may by order in the Gazette establish and different dates and transitory arrangements may be established in respect of different provisions and purposes of this Act.

2. In this Act, unless the context otherwise requires: Interpretation.

"author" means the person who authors or co-authors any content disseminated by media;

"broadcast" means the transmission by wire or over the air, including that by satellite, of statements and or visual images, whether or not such statements or images are in fact received by any person;

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"broadcasting licence" shall have the same meaning as is attributed to in the Broadcasting Act;

"defamation" is the communication of a statement that seriously harms the reputation of a person and includes libel and slander;

"editor" means when there is a person so registered, means the person registered as editor in accordance with article 19, and, when there is no person registered in accordance with article 19, includes any person responsible for the editorial or content control of any media;

"libel" means defamation by publication;

"media" includes all forms of dissemination of ideas, information or opinions on matters of public interest to the general public or to a portion of the public under the editorial control of an editor;

"Media Registrar" means such person as the Prime Minister may, from time to time by notice in the Gazette, designate as Media Registrar for the purposes of this Act;

"person" includes a body of persons, whether it has a distinct legal personality or not;

"publication" means any act whereby any written media is or may be communicated to or brought to the knowledge of any person or whereby words or visual images are disseminated;

"publisher" means a person who owns or controls an enterprise publishing written media;

"slander" means defamation by spoken statements uttered with malice;

"written media" means any writing or print made by any device and includes any written media content distributed by any means both if distributed through electronic online platforms and if distributed by any means offline without the use of electronic platforms and any other means whereby words or visual images may be heard or perceived or reproduced.

What constitutes
libel.

3. (1) Defamatory words in written media shall be deemed to be published and to constitute libel.

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(2) Defamatory statements give rise to an action in libel before

the competent court and the provisions of the Code of Organization and Civil Procedure relating to actions filed before the court shall apply to such action.

(3) Civil proceedings for defamation under this Act in respect of anything published in the media may be instituted against each of the following persons:

(a) the author, if he shall have composed the work for the purpose of its being published, or if he shall have consented thereto;

(b) the editor,

or, if the said persons cannot be easily identified,

(c) the publisher:

Provided that separate actions may not be instituted against the persons mentioned in paragraphs (a), (b) and (c) above in respect of the same defamation.

(4) Statements are not defamatory unless they cause serious harm or are likely to seriously harm the reputation of the specific person or persons making the claim:

Provided that, for the purposes of this article, harm to the reputation of a body that trades for profit is not serious harm unless it has caused or is likely to cause serious financial loss.

4. (1) (a) It is a defence to an action for defamation for the defendant to show that the imputation conveyed by the statements complained of is substantially true. Defences.
Truth.

(b) Where the statements complained of convey two or more distinct imputations, if one or more of the imputations is not shown to be substantially true, the defence under this article does not fail if, having regard to the imputations which are shown to be substantially true, the imputations which are not shown to be substantially true do not seriously harm the claimant's reputation.

(2) It is a defence to an action for defamation for the defendant to show that all the following conditions are met: Honest opinion.

(a) the statement complained of was a statement of opinion;

(b) the statement complained of indicated, whether in general or specific terms, the basis of the opinion;

(c) that an honest person could have held the opinion on the basis of -

(i) any fact which existed at the time the statement complained of was published; or

(ii) anything asserted to be a fact in a privileged statement published before the statement complained of.

(3) The defence referred to in sub-article (2) is defeated if the claimant shows that the defendant did not hold the opinion:

Provided that this sub-article shall not apply in a case where the statement complained of was published by the defendant but made by another person ("the author"); and in such a case the defence is defeated if the claimant shows that the defendant knew or ought to have known that the author did not hold the opinion.

(4) For the purposes of sub-article (2) a statement is a "privileged statement" if the person responsible for its publication can prove in his defence that -

(a) the publication is on a matter of public interest which has already been given publicity in a manner accessible to a large audience on an established medium; or

(b) the publication is a peer-reviewed statement in a scientific or academic journal; or

(c) the publication is a report of court proceedings protected by absolute privilege in terms of article 7.

(5) The defences referred to in sub-articles (1) and (2) shall only apply where the person aggrieved is a public figure, such as when the said person:

(a) is a public officer or servant or an officer or servant of a body established by law or of a body in which the Government of Malta has a controlling interest; or

(b) is a candidate for a public office and the facts attributed to him refer to his honesty, ability or competency to fill that office; or

(c) habitually exercises a profession, art or trade, and the

facts attributed to him refer to the exercise of such profession, art or trade; or

(d) takes an active part in politics and the facts attributed to him refer to his so taking part in politics; or

(e) occupies a position of trust in a matter of general public interest:

Provided that the truth of the matters charged may not be enquired into if such matters refer to the private life of the plaintiff and the facts alleged have no significant bearing on the exercise of the plaintiff's public functions, office, profession or trade:

Provided further that, notwithstanding the provisions of this sub-article, the defences referred to in sub-articles (1) and (2) may be raised where the matter referred to is a matter of general public interest or where the person aggrieved, although not being a public figure is involved in matters of public interest or where after giving due consideration to all the circumstances of the claim the Court is satisfied that the raising of the said defences is necessary in the interests of the proper administration of justice.

(6) Subject to the other provisions of this article, in any action for defamation under this Act, the defendant shall be entitled to plead in defence any cause for mitigation of damages as well as any plea which, if acceded to, would lead to the dismissal of the action and the defendant may submit pleas that the publication is not defamatory and that the facts as stated are true and, or that any opinion expressed is an honest opinion. The submission of one such plea does not automatically exclude the other.

5. (1) It is a defence to an action for defamation for the defendant to show that - Publication on matter of public interest.

(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.

(2) Subject to the provisions of sub-articles (3) and (4), in determining whether the defendant has shown the matters mentioned in sub-article (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 by 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 judgement as it considers appropriate.

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

Peer-reviewed
statement in
scientific or
academic
journal, etc.

6. (1) The publication of a statement in a scientific or academic journal (whether published in electronic form or otherwise) is privileged if the following conditions are met:

(a) that the statement relates to a scientific or academic matter;

(b) that before the statement was published in the journal an independent review of the statement's scientific or academic merit was carried out by:

(i) the editor of the journal; and

(ii) one or more persons with expertise in the scientific or academic matter concerned.

(2) Where the publication of a statement in a scientific or academic journal is privileged by virtue of sub-article (1) the publication in the same journal of any assessment of the statement's scientific or academic merit is also privileged if -

(a) the assessment was written by one or more of the persons who carried out the independent review of the statement; and

(b) the assessment was written in the course of that review.

(3) Where the publication of a statement or assessment is privileged by virtue of this article, the publication of a fair and accurate copy of extract from or summary of the statement or assessment is also privileged.

(4) Notwithstanding the other provisions of this article a publication is not privileged by virtue of this article if it is shown to be made with malice.

(5) Nothing in this article is to be construed -

(a) as protecting the publication of matter the publication of which is prohibited by law;

(b) as limiting any privilege subsisting apart from this article.

7. (1) No action for defamation shall lie in respect of the following publications: Privileged publications.

(a) publications made in pursuance of an Act of Parliament or by authority of the President of Malta or of the House of Representatives;

(b) publications consisting of communications between public officers, or between such officers, and contractors of the public service or officials of public corporations, reports of inquiries held in terms of any law, or statements by public officers that are made in good faith in the public interest including the interests of national security, territorial integrity, public safety, the prevention of disorder or crime or for the protection of health or morals;

(c) publications of *bona fide* reports of debates of the House of Representatives, provided the relevant part of the debate is published, and the defence of any person against whom any charge is made is not suppressed or maliciously or negligently curtailed or altered;

(d) publications of reports of any proceedings in a court of justice in Malta, provided such reports are fair reports of the proceedings and the publication of such reports or proceedings is not prohibited by law or by the court;

(e) any evidence given in good faith and according to law before a court or before a tribunal established by law:

Provided that it shall not be lawful to publish -

(a) anything which, by article 994 of the Code of Organization and Civil Procedure, is forbidden to be used or produced, or Cap. 12.

(b) any report of the proceedings in any case of defamation, in which evidence of the truth of the matters charged is not allowed by law.

(2) The following publications are also privileged:

(a) a fair and accurate copy of, extract from or summary of, a notice or other matter issued for the information of the public by or on behalf of -

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

(ii) an authority anywhere in the world performing governmental functions including police functions;

(iii) an international organisation or international conference;

(b) a fair and accurate copy of, extract from or summary of, a document made available by a court anywhere in the world, or by a judge or officer of such a court;

(c) a fair and accurate report of proceedings at a press conference held anywhere in the world for the discussion of a matter of public interest;

(d) a fair and accurate copy of, extract from or summary of any document circulated to members of a company listed on a stock exchange -

(i) by or with the authority of the board of directors of the company,

(ii) by the auditors of the company, or

(iii) by any member of the company in pursuance of a right conferred by any law.

(e) a fair and accurate copy of, extract from or summary of any document circulated to members of a company listed on a stock exchange which relates to the appointment, resignation, retirement or dismissal of directors of the company or its auditors;

(f) a fair and accurate -

(i) report of proceedings of a scientific or

academic conference held anywhere in the world, or

(ii) copy of, extract from or summary of matter published by such a conference.

(3) In sub-article (2) -

"court" includes -

(a) any tribunal or body established under the law of any country or territory exercising the judicial power of the State;

(b) any international tribunal established by the Security Council of the United Nations or by an international agreement;

(c) any international tribunal deciding matters in dispute between States;

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

"international organisation" means an organisation of which two or more governments are members, and includes any committee or other subordinate body of such an organisation.

8. (1) In proceedings for defamation under this Act it shall be a defence for the defendant in an action for libel to prove that the information published or broadcast on written media consisted of an accurate report of a statement made by a public figure who knew or could reasonably have known or expected that the content of that statement was to be published in written media and that the publication of the said statement was reasonably justifiable in a democratic society.

Qualified privilege in case of public statement.

(2) Proceedings for libel under this Act may also be instituted against any public figure who shall have made a statement in circumstances where he was aware or could have reasonably been aware or have expected that the content of his statement was going to be published in written media and in fact such content is in whole or in part so published. The person or persons mentioned in this article shall be deemed to have acted knowingly, in default of evidence to the contrary.

9. In proceedings instituted under this Act, the Court may order the defendant to pay a sum not exceeding eleven thousand, six hundred and forty euro (€11,640) by way of moral damages in addition to

Libel damages.

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actual damages under any law for the time being in force:

Provided that in actions for slander the maximum amount to be awarded by way of moral damages shall be five thousand euro (€5,000).

Preliminary
hearing.

10. (1) In an action for defamation the Court shall appoint the case for a preliminary hearing within a period of twenty days from the time allowed for the filing of the sworn reply.

(2) The Court shall, at the preliminary hearing, after hearing the parties, decide whether the action may be determined by mediation or agreement between the parties or through an apology, in all cases with or without the payment of costs and or an amount of damages not exceeding one thousand euro (€1,000). When the court decides that there is a likelihood that the action is capable of being resolved by agreement or mediation between the parties it shall refer the parties to mediation to be concluded within a specified period after which the action shall proceed if no agreement is reached between the parties.

(3) Where the Court decides that the action may not be determined as provided in sub-article (2) it shall proceed with the hearing of the cause.

Assessment by
the Court.

11. (1) In assessing the sum being awarded under this Act in an action for defamation, the Court shall take into account:

(a) the gravity and extent of the defamation or the extent to which the defamation is likely to injure the reputation of the plaintiff;

(b) whether the defendant exercised due diligence before publishing the defamatory matter;

(c) whether the defendant made or offered to make an apology to the plaintiff or to publish a clarification to the satisfaction of the plaintiff before the action or as soon afterwards as the defendant had an opportunity of doing so in case of commencement of the action before there was an opportunity of making or offering such apology or clarification.

(2) Should the defendant have, prior to the commencement of the proceedings, apologised and published an unreserved correction with the same importance as the original publication or published a reply submitted by the plaintiff with the same importance as the original publication, then the Court shall not award in moral damages an amount in excess of five thousand euro (€5,000).

(3) It shall be lawful to take action in respect of each and every imputation in the same case and the persons concerned in the libel may be sued either jointly or severally:

Provided that the amount of moral damages recoverable in regard to the same case shall not exceed eleven thousand, six hundred and forty euro (€11,640).

(4) In assessing the sum to be awarded in an action for defamation the Court shall also in such manner as it may consider appropriate in the interests of proportionality, take into account the economic capacity of the defendant and the impact which the payment of the sum to be awarded is likely to have on the newspaper, broadcaster, website, journalist or other media actor.

12. (1) This article applies where an action for defamation is brought against the editor of a website in respect of a statement posted on the website. Editors of websites.

(2) It is a defence in mitigation of damages for the editor to show that it was not the operator or person who posted the statement on the website.

(3) The defence is defeated if the plaintiff shows that -

(a) it was not possible for the plaintiff to identify the person who posted the statement, and

(b) the plaintiff gave the editor a notice of complaint in relation to the statement, and

(c) the editor failed to respond to the notice of complaint or did not act in accordance with any provision contained in regulations about such notices.

(4) For the purposes of paragraph (a) of sub-article (3), 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 Minister may by regulations which shall be made after a consultation process, and which shall take into account the need to guarantee a fair balance between the protection reputation of persons and freedom of expression exercised as is necessary in a democratic society, and which shall be approved by resolution of the House of Representatives before they come into force:

(a) make provision as to the action required to be taken by an editor of a website in response to a notice of complaint

which may in particular include 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 the taking of any such action;

(c) make any other provision for the purposes of this article.

(6) Subject to any provision made by virtue of sub-article (5), 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 information as may be specified in regulations.

(7) The defence under this article is defeated if the plaintiff shows that the editor of the website has acted with malice in relation to the posting of the statement concerned.

(8) The defence under this article is not defeated by reason only of the fact that the editor of the website moderates the statements posted on it by others.

Single
publication rule.

13. (1) This article applies if a person -

(a) publishes a statement to the public ("the first publication"), and

(b) subsequently publishes (whether or not to the public) that statement or a statement which is substantially the same.

(2) In sub-article (1) "publication to the public" includes publication to a section of the public.

(3) For the purposes of the time limit for actions for defamation any cause of action against the person for defamation in respect of the subsequent publication is to be treated as having accrued on the date of the first publication.

(4) This article does not apply in relation to the subsequent

publication if the manner of that publication is materially different from the manner of the first publication.

(5) In determining whether the manner of a subsequent publication is materially different from the manner of the first publication, the matters to which the Court may have regard include, amongst other matters -

- (a) the level of prominence that a statement is given;
- (b) the extent and likely circulation of the subsequent publication;
- (c) the method of publication.

(6) Saving the provisions of sub-article (3), where a person publishes multiple statements to the public which are substantially similar to the first publication in terms of sub-article (5) and an action for defamation has not yet been instituted, the person aggrieved shall not be permitted to institute multiple actions against the same person but shall, in the action so instituted, make reference to the various publications and the Court may, in addition to the assessment conducted in terms of article 11, take such multiple publications into account when awarding damages in terms of article 9:

Provided that, where an action has already been instituted against a person in terms of this Act the claimant shall not be permitted to institute new actions for such subsequent statements but may, by application to the Court, bring such subsequent statements to the attention of the Court and the Court may, in addition to the assessment conducted in terms of article 11, take such subsequent statements into account when awarding damages in terms of article 9.

14. Where the Court gives a decision for the plaintiff in an action for defamation it may order -

Order to remove statement or cease distribution, etc.

- (a) the operator or editor of a website on which the defamatory statement is posted to remove the statement from that website, or
- (b) any person who was not the author, editor or publisher of the defamatory statement to stop distributing, selling or exhibiting material containing the statement.

15. (1) Any person whose actions or intentions have been misrepresented or who has been the victim of defamation or who has had his private life intruded into through a publication is entitled to demand to have published forthwith, free of charge, in the same

Right of reply.

medium, a statement by way of contradiction or explanation:

Provided that this article does not apply if the misrepresentation occurs in a broadcast of a political nature which is part of a scheme approved by the Broadcasting Authority where the misrepresentation may be contradicted or explained by another broadcast which is part of the same scheme. Where the misrepresentation occurs in a broadcast which is the last broadcast in any aforementioned scheme, the Broadcasting Authority shall decide on the manner in which the right of reply shall be exercised:

Provided also that no person shall be required to publish a statement by way of contradiction or explanation which is defamatory or which is not written in the language of the publisher or any of the languages used by the broadcasting medium or website where it is requested that it should be published:

Provided further that the right of reply shall be restricted to the correction or contradiction and, or explanation of facts and shall not extend to the submission of a different opinion.

(2) (a) In the case of a newspaper, a reply in accordance with this article shall be published as a separate article and without being interpolated with any comments or other material that does not form part of the reply, with appropriate prominence as the publication in respect of which the right of reply is exercised and it shall not be lawful to shorten or edit the reply in such a manner as to prejudice the effective exercise of the right of reply under this article. The said statement shall be published not later than the second issue of the newspaper following the receipt of the request:

Provided that when the right of reply is availed of in respect of a publication in a newspaper published at intervals of at least one week, the said statement shall be published in the issue immediately following the receipt of the request if such request is received at least four days before the publication of the said issue and not later than the second issue following the receipt of the request in all other cases.

(b) In the case of a broadcast, a statement in terms of sub-article (1) shall be broadcast not later than the second day following that on which the request is received; it shall be broadcast in a way and at a time so that it reaches as much as possible the same audience and with the same prominence, and the time allowed shall be a time which is twice the time of the broadcast or part of the broadcast complained of but which is not less than ninety seconds and not more than one hundred and eighty seconds.

(c) Without prejudice to the provisions of article 11, where the claimant still files defamation proceedings despite the fact that his reply has been published in terms of this Act, then the Court shall, in its judgement, consider this fact and reduce any award as appropriate.

(d) In the case of media consisting of a website, a statement in terms of sub-article (1) shall be uploaded on the website not later than the second day following which the request is received. The reply must be given the same prominence as that which was given to the statement being replied to.

(e) Where the editor or operator of a website receives more than one reply about the same subject the editor or operator may summarise the replies.

(f) An editor or person responsible for the broadcasting medium or an operator of a website responsible for the uploading of a reply on a website who fails to comply with the provisions of this article may, on the application of the complainant to the Court of Magistrates in its civil jurisdiction, be ordered to publish such reply. The Court may, after hearing the parties, also order the editor, person responsible for the broadcasting medium or an operator of a website, as the case may be, to pay a penalty to the complainant not exceeding two thousand euro (€2,000).

(g) The provisions of this article shall not apply to privileged publications as defined in this Act.

(h) The right of reply under this article shall lapse if the person demanding such right shall not have claimed it within one month from publication.

16. (1) Whosoever shall publish any statement which he knows or with due diligence could have known to be false and which is likely to damage any business concern or any other property shall be liable to pay to the injured party, in addition to the damages which may be due under any law for the time being in force in respect of any actual loss or injury, an amount not exceeding eleven thousand, six hundred and forty euro (€11,640) to be fixed by the Court. Trade libel.

(2) A company, a foundation, a co-operative and any other moral person may sue and be sued for defamation.

17. (1) An action shall lie for defamation of a deceased person provided that the deceased person was the father or mother or sibling or child of the plaintiff or the plaintiff is the heir of the deceased person and the plaintiff can demonstrate that his own reputation was in fact harmed by the statement. Defamation of deceased persons.

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(2) The provisions of this article are without prejudice to the right of any person to seek damages in an action for defamation on account of statements which, although published about a deceased person, are in fact defamatory in respect of the plaintiff so however that the same statement may not give rise to the payment of damages to the plaintiff more than once.

Prescription. **18.** An action under the provisions of this Act shall, unless it is subject to a shorter period of prescription under this Act, be barred by prescription after the lapse of one year from date of publication.

Editors. **19.** (1) Any person who is resident in Malta and who has legal capacity may be an editor.

(2) Whosoever is an editor or a publisher of a newspaper, may, if he so elects, produce to the Media Registrar a declaration containing -

(a) in the case of the editor -

(i) his name and surname, a legally valid identification document number, age and place of work or residence; and

(ii) in the case of a newspaper, the title and nature of the newspaper, and the intervals at which it is proposed to be published; and

(b) in the case of a publisher -

(i) if the publisher is an individual, his name, surname, age, place of work or residence and a legally valid identification document number;

(ii) if the publisher is a company or other association of persons or legal person, its name, address, the particulars mentioned in sub-paragraph (i) in respect of its judicial representative, and, where applicable, its company, partnership or other registration number;

(iii) the title and nature of the newspaper and the intervals at which it is proposed to be published; and

(iv) the name and address of the press where the printing is to take place,

and, if they chose to register as provided in this article, both the editor and the publisher shall keep the Media Registrar at all times informed of their place of residence or work and shall communicate

to the Media Registrar any change in his place of residence or work within ten days of such change.

20. (1) There shall be a Media Registrar who shall keep a Media Register and enter therein the particulars referred to in article 19 and any changes thereto, and shall make such other entries therein and such alterations thereto as may be appropriate or as may be prescribed by regulations made by the Prime Minister under this Act.

(2) Any person may inspect the Media Register at all reasonable times during normal office hours and may also, against payment of the appropriate fee, require a certified copy of any entry in or any extract from the register kept under this article.

(3) The Media Registrar shall cancel the registration of an editor or a publisher of a newspaper or of a broadcasting service -

(a) if he is so requested in writing by the editor or publisher; or

(b) if, in the case of a newspaper published at intervals not exceeding one month, such newspaper is not published for a period exceeding three months, and, in the case of any other newspaper, it is not published for a period exceeding one year; or

(c) if, in the case of a broadcasting service, such service ceases to be licensed:

Provided that the provisions of this article shall not apply to any periodical publication published by, or by order or leave of or for the use of, the President of Malta, the Government of Malta or any of its Ministries or Departments or by the House of Representatives.

(4) The Prime Minister may by regulations provide:

(a) that the functions of Media Registrar shall be fulfilled by such person or organization as may in his opinion duly represent journalists and publishers; and

(b) that in addition to the functions conferred upon the Media Registrar by this Act the said Registrar may also perform other functions in the field of training, analysis of developments in the media and the fostering of alternative and accessible means of dispute resolution relating to the media:

Provided that any regulations made under this sub-article shall be made after a consultation process and shall be approved by a resolution of the House of Representatives before

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they come into force.

Editor in case of
broadcasting.

21. Every holder of a broadcasting licence in Malta shall, for the purposes of this Act, be considered as editor and be considered as editorially responsible for the broadcasting service and may be required to so register as editor in the Media Register unless such person appoints another person to be editor in his stead.

Protection of
journalists'
sources.

22. No court or tribunal established by law shall require an editor, author, publisher or operator of a website to disclose the source of information contained in a newspaper or broadcast or website for which he is responsible unless it is established to the satisfaction of the court or tribunal that such disclosure is necessary in a democratic society in the interests of national security, territorial integrity, public safety, or for the prevention of disorder or crime or for the protection of the interests of justice.

Refusal not to
constitute
contempt of
court.

23. No person whose sources are privileged in terms of article 22 shall be guilty of contempt of court for refusing to disclose the source of information contained in a newspaper or broadcast or website for which he is responsible unless the court or tribunal has concluded that such disclosure is necessary in a democratic society in the interests of national security, territorial integrity, public safety, or for the prevention of disorder or crime or for the protection of the interests of justice and such person persists in refusing to disclose the source of the information.

Certificate to be
proof of its
contents.

24. In any proceedings before a court or tribunal, a certificate issued and signed by the Media Registrar showing who is or at any time was, the editor or the publisher of a newspaper, or a broadcasting service shall constitute proof of its content unless the contrary is proved.

Consequential
amendments to
the Criminal
Code.
Cap. 9.

25. The Criminal Code shall be amended as follows:

(a) in sub-article (1) of article 48A thereof the words
", not being a crime in Malta under the Press Act," shall be
deleted;

(b) immediately after article 55 thereof, there shall be

added the following new article:

"Incitement to take away the life and liberty of the President of Malta or of any Minister.

55A. Whosoever by any means shall incite others to take away the life or liberty of the President of Malta or of any Minister shall, for the mere incitement, be liable on conviction to imprisonment for a term not exceeding nine years or to a fine (*multa*) not exceeding five thousand euro (€5,000) or to both such fine and imprisonment.";

(c) (i) article 72 shall be deleted;

(ii) in article 73 thereof the words "to excite hatred or contempt towards the person of the President of Malta or towards the Government of Malta, or" shall be deleted and the words "otherwise than by lawful means" shall be substituted with the words "by violent means". The marginal note thereto shall be substituted with the words "Unlawful assembly with seditious violent intent.";

(iii) in article 74 thereof the words "to excite hatred or contempt towards the person of the President of Malta or towards the Government of Malta or" shall be deleted and the words "otherwise than by lawful means" shall be substituted with the words "by violent means";

(iv) article 75 thereof shall be deleted;

(d) in article 82 thereof, for the words "one to three months." there shall be substituted the words "one to three months:", and immediately thereafter there shall be added the following proviso:

"Provided that if any disturbance ensues in consequence of the offence, or if the offence has contributed to the occurrence of any disturbance, the offender shall be liable to imprisonment for a term of not less than one month but not exceeding six months and to a fine (*multa*) not exceeding one thousand euro (€1,000) or both such fine and imprisonment.";

(e) articles 252, 253, 254, 255 and 256 thereof shall be deleted and the title of Sub-Title X of Title VIII of Part II of Book First thereof shall be substituted with the words "OF DISCLOSURE OF INFORMATION RECEIVED IN

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CONFIDENCE";

(f) in paragraph (a) of article 355 thereof the words ", not being a crime punishable under the Press Act" shall be deleted;

(g) in paragraphs (a), (b) and (c) of sub-article (1) of article 355E thereof the words "other than a crime punishable under the Press Act" shall be deleted;

(h) sub-article (5) of article 355X thereof shall be deleted;

(i) in sub-article (1) of article 355Y thereof the words "excepting always the crimes punishable under the Press Act," shall be deleted;

(j) the proviso to article 589 thereof shall be deleted.

Consequential amendment to the Code of Organization and Civil Procedure. Cap. 12.

26. Immediately after sub-article (5) of article 837 of the Code of Organization and Civil Procedure, there shall be added the following new sub-article:

"(6) It shall not be lawful to issue any precautionary warrant of seizure, warrant of seizure of a commercial going concern or garnishee order in security of any right or claim against any person for damages for libel or other defamation under any law."

Consequential amendment to the Judicial Proceedings (Regulation of Reports) Act. Cap. 60.

27. Article 6 of the Judicial Proceedings (Regulation of Reports) Act shall be deleted.

Consequential amendment to the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes. S.L. 350.14.

28. In paragraph 8.15.2 of the Requirements as to Standards and Practice applicable to News Bulletins and Current Affairs Programmes the words "Such requirements are without prejudice to article 21 of the Press Act." shall be substituted by the words "Such requirements are without prejudice to article 15 of the Media and Defamation Act, 2018."

29. In the Requirements as to Standards and Practice on the Promotion of Racial Equality, the words:

Consequential amendment to the Requirements as to Standards and Practice on the Promotion of Racial Equality.
S.L. 350.26

"Article 6 of the Press Act reads as follows:

"6. Whosoever, by any means mentioned in article 3, shall threaten, insult, or expose to hatred, persecution or contempt, a person or group of persons because of their race, creed, colour, nationality, sex disability as defined in article 2 of the Equal Opportunities (Persons with Disability) Act, or national or ethnic origin shall be liable on conviction to imprisonment for a term not exceeding three months and to a fine (*multa*).".",

shall be deleted.

30. In form 7a in the Schedule to the Digital Radio Broadcasting Regulations the words "Who will be registered under the Press Act as the person responsible for editorial content of the radio service?" shall be substituted by "Will any person be registered as editor or publisher under the Media and Defamation Act, 2018 and if so who will that person be?".

Consequential amendment to the Digital Radio Broadcasting Regulations.
S.L. 350.29.

31. In form 6a in the Schedule of the Broadcast Distribution Services Regulations the words "Who will be registered under the Press Act as the person responsible for editorial content of the broadcast distribution service?" shall be substituted by the words "Will any person be registered as editor or publisher under the Media and Defamation Act, 2018 and if so who will that person be?".

Consequential amendment to the Broadcast Distribution Services Regulations.
S.L. 350.33.

32. In the Electronic Communications (Regulation) Act immediately after article 49 thereof there shall be added the following new proviso:

Consequential amendment to the Electronic Communications (Regulation) Act.
Cap. 399.

"Provided that mere defamatory words or statements uttered or published on an electronic communications network or apparatus and which may give rise to an action for defamation or slander in terms of the Media and Defamation Act, shall not constitute an offence under this Act."

33. (1) The Press Act, hereinafter referred to as "the repealed Act", is hereby repealed subject to the provisions of this article and without prejudice to anything done or which may still be done thereunder.

Repeal and transitory provisions.
Cap. 248.

(2) Notwithstanding the other provisions of this Act, the repealed Act, as in force prior to being repealed by virtue of this Act, shall continue to apply in respect of all causes pending before the courts at the time of its repeal:

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Provided that by not later than the second court hearing after the coming into force of this Act of any cause involving a civil claim for defamation which at the time of the coming into force of this Act is pending and not adjourned for final submissions or for judgement before the Court of Magistrates in its civil jurisdiction, the said Court shall *mutatis mutandis* apply the provisions of article 10(2).

(3) The amounts of civil damages applicable under the repealed Act prior to its repeal by this Act shall, notwithstanding the provisions of this Act, continue to apply in respect of defamation causes filed under the repealed Act prior to the coming into force of this Act.

(4) Any criminal proceedings instituted under the repealed Act prior to the coming into force of this Act and which, on the coming into force of this Act, are pending before any court shall be discontinued.

Cap. 248.

(5) Any reference in any other law to "Press Act", after the coming into force of this Act, shall, *mutatis mutandis*, be read and construed as a reference to the "Media and Defamation Act, 2018".

Passed by the House of Representatives at Sitting No. 101 of the 17th April, 2018.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

