



**SEANAD ÉIREANN**

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**AN BILLE UM CHLÚMHILLEADH 2006  
DEFAMATION BILL 2006**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# SEANAD ÉIREANN

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## AN BILLE UM CHLÚMHILLEADH 2006 —AN CHOISTE

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### DEFAMATION BILL 2006 —COMMITTEE STAGE

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*Leasuithe  
Amendments*

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*\*Government Amendments are distinguished by an asterisk.*

#### SECTION 5

1. In page 7, subsection (4)(b), line 24, after “person” to insert the following:

“or the publication to the second-mentioned person was in the course of the performance of duties of a secretarial nature by the second-mentioned person (being a person whose relationship if any to the first-mentioned person is primarily based on contract) and there were no reasonable grounds to believe that the first-mentioned person would suffer any significant injury by reason only of such publication”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,  
Michael McCarthy.*

#### SECTION 9

2. In page 10, line 10, to delete “, in particular,”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell,  
Michael McCarthy.*

#### SECTION 11

*Section opposed.*

—*Senator David Norris.*

#### SECTION 15

3. In page 12, subsection (2), lines 3 and 4, to delete paragraph (f).

—*Senator David Norris.*

- \*4. In page 12, subsection (2), between lines 15 and 16, to insert the following:

“(j) a fair and accurate report of proceedings to which a relevant enactment referred to in section 40 of the Civil Liability and Courts Act 2004 applies;”.

- \*5. In page 12, subsection (2)(r), line 44, to delete “under the Constitution” and substitute “by law in the State”.

#### SECTION 16

- \*6. In page 14, subsection (6), line 8, to delete “social duty.” and substitute “social duty;”.

[ SECTION 18 ]

SECTION 18

\*7. In page 14, subsection (1), line 37, to delete “Act” and substitute “section”.

\*8. In page 15, subsection (2)(b)(ii)(II), lines 14 and 15, to delete “in accordance with *section 16(2)*”.

*Section opposed.*

—*Senator David Norris.*

SECTION 22

9. In page 18, between lines 8 and 9, to insert the following subsection:

“(2) The court may regard an apology as effecting a substantial mitigation of damage if, but only if, it is made within 14 days of complaint being made in respect of the utterance to which the apology relates, and if the defendant’s proposals for publication of the apology are reasonable.”

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Michael McCarthy.*

10. In page 18, subsection (3)(a), line 15, after “not” to insert “automatically”.

—*Senator David Norris.*

11. In page 18, subsection (3)(b), line 17, after “not” to insert “automatically”.

—*Senator David Norris.*

SECTION 24

12. In page 18, lines 26 to 36, to delete subsection (1) and substitute the following:

“24.—(1) Subject to *subsection (4)*, it shall be a defence (to be known, and in this section referred to, as “the defence of fair and reasonable publication”) to a defamation action for the defendant to prove that the statement in respect of which the action was brought was published in good faith and in all the circumstances of the case, it was fair and reasonable to publish the statement.”

—*Senator Maurice Cummins.*

\*13. In page 18, subsection (1), line 27, to delete “as “the defence” and substitute “as the “defence””.

14. In page 18, subsection (1), line 31, to delete paragraph (a).

—*Senator David Norris.*

15. In page 19, subsection (2)(f)(i), lines 9 and 10, to delete all words from and including “or” in line 9 down to and including “standards” in line 10.

—*Senator David Norris.*

16. In page 19, subsection (2), lines 13 to 17, to delete paragraph (g).

—*Senator Maurice Cummins.*

17. In page 19, subsection (2)(g), line 16, after “obtain” to insert “in advance”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Michael McCarthy.*

18. In page 19, subsection (2)(g), line 17, after “person” to insert the following:

[ SECTION 24 ]

“and the extent to which the prominence and extent of the representation of that person’s response compares with the prominence and extent of the suspicion, allegation or fact concerned”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Michael McCarthy.*

19. In page 19, subsection (4)(b), line 36, to delete “out of spite, ill will or”.

—*Senator Maurice Cummins.*

20. In page 19, subsection (4), between lines 39 and 40, to insert the following:

“(d) as far as practicable, he or she made a reasonable attempt to obtain in advance and publish a response from the person to whom the publication related, and”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Michael McCarthy.*

SECTION 26

21. In page 20, subsection (1), line 41, after “the” to insert “District Court, Circuit Court or”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Michael McCarthy.*

22. In page 21, subsection (6), line 19, to delete “applicant” and substitute “plaintiff”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O’Meara, Derek McDowell, Michael McCarthy.*

SECTION 28

23. In page 22, subsection (1), line 4, after “statement” to insert the following:

“and to give due prominence to the correction order such as will ensure that it is communicated to all or substantially all of those persons to whom the defamatory statement is published”.

—*Senator Maurice Hayes.*

24. In page 22, lines 5 to 14, to delete subsection (2).

—*Senator Maurice Hayes.*

\*25. In page 22, subsection (2), line 6, to delete “specify”.

\*26. In page 22, subsection (2), lines 7 and 8, to delete paragraph (a) and substitute the following:

“(a) specify –

(i) the date and time upon which, or

(ii) the period not later than the expiration of which,

the correction order shall be published, and”.

\*27. In page 22, subsection (2)(b), line 9, to delete “the form” and substitute “specify the form”.

[ SECTION 29 ]

SECTION 29

- 28.** In page 22, subsection (2), line 27, to delete “shall give directions” and substitute “may advise”.

—*Senator David Norris.*

- 29.** In page 23, subsection (6)(a), line 29, before “give” to insert “with the leave of the court,”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SECTION 32

- 30.** In page 24, subsection (1), line 34, after “The” to insert “Circuit Court or the”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SECTION 35

- 31.** In page 25, subsection (1), line 24, after “knowingly” to insert “or recklessly”.

—*Senators Joanna Tuffy, Brendan Ryan, Kathleen O'Meara, Derek McDowell, Michael McCarthy.*

SCHEDULE 1

- \*32.** In page 31, paragraph 5, line 1, to delete “under the Constitution” and substitute “by law in the State”.

SCHEDULE 2

- 33.** In page 33, paragraph 4, line 8, to delete “shall” and substitute “may”.

—*Senator David Norris.*

- 34.** In page 33, paragraph 7(1), lines 38 to 40, to delete all words from and including “from” in line 38 down to and including “purpose” in line 40 and substitute “by the Exchequer”.

—*Senator David Norris.*