



DÁIL ÉIREANN

AN BILLE UM CHLÚMHILLEADH (LEASÚ), 2024 DEFAMATION (AMENDMENT) BILL 2024

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM CHLÚMHILLEADH (LEASÚ), 2024 —AN TUARASCÁIL

DEFAMATION (AMENDMENT) BILL 2024 —REPORT

*Leasuithe
Amendments*

1. In page 5, line 17, after “Justice” to insert “, Home Affairs and Migration”.
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
2. In page 5, lines 19 and 20, to delete “of section 34C into the Principal Act” and substitute “into the Principal Act of different provisions of Part 4A of that Act effected by *section 17*”.
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
3. In page 5, line 22, to delete the comma after “Act” and substitute the following:
“___
“cause of action”, “defamation” and “defamation action” have the same meanings as they have in the Principal Act;”.
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
4. In page 6, to delete lines 18 to 35, and in page 7, to delete lines 1 to 9.
—Gary Gannon, Matt Carthy.
5. In page 6, line 21, to delete “the”.
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
6. In page 6, lines 22 to 24, to delete all words from and including “a” in line 22 down to and including line 24 and substitute the following:
“the court may, on the application of any party to a defamation action in the High Court, or a question of fact or an issue arising in such an action, order that the action or any issue of fact in the action shall be tried without a jury if it is of opinion that such trial—
(a) will require any protracted examination of documents or accounts or any technical, scientific or local investigation which cannot conveniently be made with a jury,
(b) is for any special reason (to be mentioned in the order) unsuitable to be tried with a jury.
(2) The court may, on the application of any party to a defamation action in the High

Court, order that in matters which may involve substantial damages—

- (a) issues of fact shall be tried with a jury, and
- (b) the quantum of any damages which may arise be adjudicated by the presiding judge.”.

—Matt Carthy.

7. In page 6, line 25, to delete “instituted” and substitute “brought”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

8. In page 6, to delete line 32.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

9. In page 7, line 9, to delete “instituted” and substitute “brought”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

10. In page 7, line 19, after “corporate” to insert “that is made on or after the date of the coming into operation of *section 6* of the *Defamation (Amendment) Act 2025*”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

11. In page 8, between lines 4 and 5, to insert the following:

“(2) The amendment effected by *paragraph (a)* of *subsection (1)** shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[*This is the correct reference if this amendment is accepted.]

12. In page 8, between lines 31 and 32, to insert the following:

“(2) The amendments effected by *subsection (1)** shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[*This is the correct reference if this amendment is accepted.]

13. In page 9, between lines 3 and 4, to insert the following:

“(2) The amendment effected by *subsection (1)** shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[*This is the correct reference if this amendment is accepted.]

14. In page 9, between lines 18 and 19, to insert the following:

“(2) The amendment effected by *subsection (1)** shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

15. In page 9, between lines 18 and 19, to insert the following:

“Defence of publication on matter of public interest

11. (1) The Principal Act is amended by the substitution of the following section for section 26:

“Publication on matter of public interest

26. (1) It shall be a defence (to be known as the ‘defence of publication on a matter of public interest’) to a defamation action for the defendant to prove that, in all the circumstances of the case—

(a) the statement in respect of which the action was brought was on a matter of public interest,

(b) the defendant reasonably believed that publishing the statement was in the public interest, and

(c) the statement was published in good faith.

(2) Subject to subsection (3), a court shall, for the purposes of determining whether subsection (1)(b) is proved, have regard to whether the belief was arrived at after the making of such enquiries and checks as it was reasonable to expect of the defendant.

(3) Where the statement in respect of which the defamation action was brought was an accurate and impartial account of a dispute to which the plaintiff in the defamation action was a party, the court shall, 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.”.

(2) The amendment effected by *subsection (1)* shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

16. In page 9, between lines 18 and 19, to insert the following:

“Abolition of Reynolds defence

12. The Principal Act is amended by the insertion of the following section after section 26:

“Abolition of Reynolds defence

26A. (1) Any common law defence known as the Reynolds defence that, immediately before the commencement of *section 12* of the *Defamation (Amendment) Act 2025*, could have been pleaded as a defence in a defamation action is abolished.

(2) Subsection (1) shall not apply to causes of action accruing before the date of the coming into operation of *section 12* of the *Defamation (Amendment) Act 2025*.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

17. In page 10, after line 37, to insert the following:

“(2) The amendment effected by *subsection (1)** shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

18. In page 11, between lines 8 and 9, to insert the following:

“(2) The amendments effected by *subsection (1)** shall apply only to applications under section 28 of the Principal Act made on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

19. In page 11, between lines 11 and 12, to insert the following:

“(2) The amendment effected by *subsection (1)** shall apply only to actions for damages for defamation brought on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

20. In page 11, between lines 25 and 26, to insert the following:

“(2) The amendments effected by *subsection (1)** shall apply only to defamation actions brought on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

21. In page 11, between lines 28 and 29, to insert the following:

“(2) The amendment effected by *subsection (1)** shall apply only—

(a) in a case where a defamation action has been brought, where the defamation action is brought on or after the date of the coming into operation of this section,

or

- (b) in a case where a defamation action has not been brought, to an application under section 33 of the Principal Act made to the High Court on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

22. In page 11, after line 32, to insert the following:

“(2) The amendment effected by *subsection (1)** shall apply only to defamation actions brought on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]

23. In page 12, lines 13 and 14, to delete all words from and including “but” in line 13 down to and including “participation” in line 14 and substitute “have the effect of preventing, restricting or penalising public participation”.

—Gary Gannon.

24. In page 14, to delete lines 6 to 14 and substitute the following:

“**34E.** (1) Where a defendant in defamation proceedings relating to his or her engagement in public participation makes an application to the court, in accordance with law, to strike out the claim as being an abusive lawsuit against public participation.”.

—Gary Gannon.

25. In page 15, between lines 23 and 24, to insert the following:

“Order for damages in case of section 34F or 34G declaration

34H. (1) Where—

- (a) the court makes a declaration under section 34F or 34G that the defamation proceedings concerned or part thereof amount to abusive court proceedings against public participation (in this section referred to as the ‘declaration’), and
- (b) the defendant in those proceedings (in this section referred to as the ‘defendant’) makes an application to the court, whether before or after the making of the declaration, on notice to the plaintiff in those proceedings (in this section referred to as the ‘plaintiff’), for an order for the payment of damages by the plaintiff to the defendant under this section,

the court may, in addition to the making of the declaration and in its absolute discretion, order the plaintiff to pay damages to the defendant as a result of injury, loss or damage suffered by the defendant consequent upon the bringing of the proceedings or part thereof the

subject of the declaration.

- (2) In deciding whether to make an order under subsection (1), and, where applicable, in determining the amount of any damages to be paid, the court shall have regard to all of the circumstances of the case and the interests of justice, and may take into account the following matters as it considers appropriate:
 - (a) the nature of the public participation concerned;
 - (b) the purpose or purposes for which the defamation proceedings or part thereof the subject of the declaration (in this subsection referred to as the ‘proceedings’) were brought relating to the defendant’s engagement in public participation;
 - (c) the conduct of the proceedings;
 - (d) any other factors leading to the making of the declaration;
 - (e) whether the declaration has been made under section 34F or 34G;
 - (f) whether the declaration relates to all or part of the proceedings;
 - (g) the injury, loss or damage suffered by the defendant as a result of the bringing of the proceedings (including, where appropriate, the threat of such proceedings) and any mitigating factors.
- (3) Where an application for an order for the payment of damages is made under subsection (1)(b)—
 - (a) the plaintiff and the defendant may make submissions to the court and adduce evidence, and
 - (b) the court may direct that evidence be given,
in relation to the application.
- (4) Where the court makes an order for the payment of damages to a defendant under this section, the court may, if it considers it appropriate to do so, apply the provisions of section 34F(2) or 34G(2), as the case may be, to costs incurred as a result of an application made by the defendant under subsection (1)(b).
- (5) The damages recoverable under this section in the Circuit Court shall not exceed the amount standing prescribed, for the time being by law, as the higher of any limit of that Court’s jurisdiction in tort.
- (6) The Personal Injuries Assessment Board Act 2003 shall not apply in relation to an application under subsection (1)(b).
- (7) This section shall not affect the operation of sections 31 and 32.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

26. In page 15, to delete lines 24 to 30 and substitute the following:

“Publication of certain judgments and court orders

34I. Where a court finds in the course of defamation proceedings that the proceedings are abusive court proceedings against public participation, the court shall direct that any written judgment of the court or, in the absence of a written judgment of the court, any order of the court, related to that finding, shall be published on the website of the Courts Service where practicable and as soon as so practicable.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

27. In page 15, between lines 30 and 31, to insert the following:

“Transitional provisions relating to provisions of Part 4A of Principal Act

18. Where a provision of Part 4A of the Principal Act comes into operation on a particular date, it shall do so only in relation to defamation proceedings (within the meaning of that Part) brought after that date.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

28. In page 16, line 4, to delete “**34I.**” and substitute “**34J.**”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

29. In page 16, line 15, to delete “**34J.** (1) Without prejudice to the Mediation Act 2017, a” and substitute “**34K.** (1) A”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

30. In page 17, line 6, to delete “**34K.**” and substitute “**34L.**”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

31. In page 17, line 27, to delete “**34L.**” and substitute “**34M.**”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

32. In page 18, line 13, to delete “**34M.**” and substitute “**34N.**”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

33. In page 18, line 14, to delete “34L(1)(a)” and substitute “34M(1)(a)”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

34. In page 19, line 33, to delete “intermediate” and substitute “intermediary”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

35. In page 20, line 7, after “remuneration,” to insert “whether such remuneration is provided directly by a recipient of services or indirectly through advertising or other means,”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

36. In page 20, between lines 32 and 33, to insert the following:

“ ‘recipient of the service’, in relation to an intermediary service, means any natural or legal person who uses an intermediary service, in particular for the purposes of seeking information or making it accessible;”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

37. In page 21, after line 19, to insert the following:

“(2) The amendments effected by *subsection (1)** shall apply only to causes of action accruing on or after the date of the coming into operation of this section.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[**This is the correct reference if this amendment is accepted.*]