

Queensland



# DEFAMATION ACT 1889

**Reprinted as in force on 28 March 2003  
(includes commenced amendments up to 2003 Act No. 8)**

**Reprint No. 2A**

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

NOT FURTHER AMENDED  
LAST REPRINT BEFORE REPEAL  
See 2005 Act No. 55 s 47

# Information about this reprint

This Act is reprinted as at 28 March 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

Queensland



**DEFAMATION ACT 1889**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title . . . . .	5
2	Act not to apply to slander of title . . . . .	5
<b>PART 2—INTERPRETATION</b>		
3	Definition of periodical . . . . .	5
4	Definition of “defamatory matter” . . . . .	5
5	Meaning of “defamation” and “publication”. . . . .	6
<b>PART 3—PUBLICATION OF DEFAMATORY MATTER</b>		
6	Publication of defamatory matter prima facie unlawful . . . . .	6
7	Defamation actionable. . . . .	6
8	Unlawful publication of defamatory matter . . . . .	6
9	Defamation of members of Parliament by strangers . . . . .	7
<b>PART 4—PROTECTION</b>		
10	Absolute protection—privilege of Parliament. . . . .	7
11	Absolute protection—privileges of judges, witnesses and others in courts of justice . . . . .	7
12	Absolute protection—reports of official inquiries . . . . .	8
13	Protection—reports of matters of public interest . . . . .	8
14	Protection—fair comment . . . . .	9
15	Protection—truth. . . . .	10
16	Qualified protection—excuse . . . . .	10
17	Good faith . . . . .	12
<b>PART 5—QUESTIONS OF FACT AND LAW</b>		
18	Questions of fact and law . . . . .	12
19	Relevancy and public benefit questions of fact. . . . .	12

**PART 6—ORAL DEFAMATION**

20	Trivial matters not in writing . . . . .	12
----	--	----

**PART 7—PROVISIONS APPLYING TO ACTIONS FOR DEFAMATION**

21	Offer of an apology admissible in evidence in mitigation of damages . . . . .	13
22	In an action against a newspaper for libel the defendant may plead that it was inserted without malice and without neglect and may pay money into court as amends . . . . .	13
23	Consolidation of actions . . . . .	13
24	Evidence in mitigation of damages . . . . .	14
25	Protection of innocent sellers of periodicals . . . . .	14
26	Protection of innocent sellers of books . . . . .	14
27	Protection of employers. . . . .	15
28	Imprimatur to be prima facie evidence of publication of book or periodical . . . . .	15
29	Levy of damages etc. by plaintiff obtaining judgment . . . . .	15

**PART 8—PROVISIONS APPLYING TO PROSECUTIONS FOR DEFAMATION**

30	Liability of proprietor, publisher and editor of periodicals . . . . .	16
31	Protection of innocent sellers of periodicals . . . . .	16
32	Protection of innocent sellers of books . . . . .	17
33	Protection of employers. . . . .	17
34	Prosecution of newspapers to be by sanction of a judge after notice . . . . .	17
35	Summary jurisdiction in trivial cases of defamation. . . . .	17
36	Evidence on trial for defamation. . . . .	18
37	Costs in cases of defamation . . . . .	18
38	Levy of fine and costs on conviction for defamation . . . . .	18
39	Proceedings for offences . . . . .	19

**ENDNOTES**

1	Index to endnotes . . . . .	20
2	Date to which amendments incorporated. . . . .	20
3	Key . . . . .	20
4	Table of reprints. . . . .	21
5	Tables in earlier reprints. . . . .	21

6	List of legislation . . . . .	21
7	List of annotations . . . . .	23



# DEFAMATION ACT 1889

[as amended by all amendments that commenced on or before 28 March 2003]

## An Act to declare and amend the law relating to defamation

### PART 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Defamation Act 1889*.

#### 2 Act not to apply to slander of title

Nothing in this Act relates to the actionable wrong commonly called ‘slander of title’.

### PART 2—INTERPRETATION

#### 3 Definition of periodical

In this Act—

“**periodical**” includes any newspaper, review, magazine, or other writing or print, published periodically.

#### 4 Definition of “defamatory matter”

(1) Any imputation concerning any person, or any member of the person’s family, whether living or dead, by which the reputation of that person is likely to be injured, or by which the person is likely to be injured in the person’s profession or trade, or by which other persons are likely to be induced to shun or avoid or ridicule or despise the person, is called

“defamatory”, and the matter of the imputation is called “defamatory matter”.

(2) An imputation may be expressed either directly or by insinuation or irony.

## **5 Meaning of “defamation” and “publication”**

(1) Any person who, by spoken words or audible sounds, or by words intended to be read either by sight or touch, or by signs, signals, gestures, or visible representations, publishes any defamatory imputation concerning any person is said to defame that person.

### **Publication**

(2) Publication is, in the case of spoken words or audible sounds, the speaking of such words or making of such sounds in the presence and hearing of any other person than the person defamed, and, in the case of signs, signals, or gestures, the making of such signs, signals, or gestures, so as to be seen or felt by, or otherwise come to the knowledge of, any person other than the person defamed, and, in the case of other defamatory matter, the exhibiting of it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by any other person than the person defamed.

## **PART 3—PUBLICATION OF DEFAMATORY MATTER**

### **6 Publication of defamatory matter prima facie unlawful**

It is unlawful to publish defamatory matter unless such publication is protected, or justified, or excused by law.

### **7 Defamation actionable**

The unlawful publication of defamatory matter is an actionable wrong.

### **8 Unlawful publication of defamatory matter**

Any person who unlawfully publishes any defamatory matter concerning someone else commits an offence.



Maximum penalty—

- (a) 20 penalty units 2 years imprisonment, if the person knows the defamatory matter is false; or
- (b) 10 penalty units or 1 year's imprisonment, in any other case.

## **9 Defamation of members of Parliament by strangers**

Any person who, not being a member of the Legislative Assembly, unlawfully publishes any false or scandalous defamatory matter touching the conduct of any member or members of the Assembly as such member or members, commits an offence.

Maximum penalty—20 penalty units or 2 years imprisonment.

## **PART 4—PROTECTION**

### **10 Absolute protection—privilege of Parliament**

(1) A member of the Legislative Assembly does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by the member in Parliament.

(2) A person who presents a petition to the Legislative Assembly does not incur any liability as for defamation by the publication to the Assembly of any defamatory matter contained in the petition.

### **11 Absolute protection—privileges of judges, witnesses and others in courts of justice**

A person does not incur any liability as for defamation by publishing, in the course of a proceeding held before or under the authority of any court of justice, or in the course of an inquiry made under the authority of a statute, or under the authority of the Government, or of the Governor in Council, or of the Legislative Assembly, any defamatory matter.

**12 Absolute protection—reports of official inquiries**

A person appointed under the authority of a statute, or by or under the authority of the Government, or of the Governor in Council, to hold any inquiry, does not incur any liability as for defamation by publishing any defamatory matter in an official report made by the person of the result of such inquiry.

**13 Protection—reports of matters of public interest**

(1) It is lawful—

- (a) to publish in good faith for the information of the public a fair report of the proceedings of the Legislative Assembly, or of any committee of the Legislative Assembly;
- (b) to publish in good faith for the information of the public a copy of, or an extract from or abstract of, any thing published by order or under the authority of the Legislative Assembly;
- (c) to publish in good faith for the information of the public a fair report of the public proceedings of any court of justice, whether such proceedings are preliminary or interlocutory or final, or of the result of any such proceedings, unless, in the case of proceedings which are not final, the publication has been prohibited by the court, or unless the matter published is blasphemous or obscene;
- (d) to publish in good faith for the information of the public a fair report of the proceedings of any inquiry held under the authority of a statute, or by or under the authority of the Government, or of the Governor in Council, or an extract from or abstract of any such proceedings, or a copy of, or an extract from or abstract of, an official report made by the person by whom the inquiry was held;
- (e) to publish in good faith for the information of the public at the request of any government department, officer of State, or police officer, any notice or report issued by such department or officer for the information of the public;
- (f) to publish in good faith for the information of the public a fair report of the proceedings of any local government, board, or body of trustees or other persons, duly constituted under the provisions of any statute for the discharge of public functions, so far as the matter published relates to matters of public concern;

*Defamation Act 1889*

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- (g) to publish in good faith for the information of the public a fair report of the proceedings of any public meeting, so far as the matter published relates to matters of public concern.

(2) A publication is said to be made in good faith for the information of the public if the person by whom it is made is not actuated in making it by ill will to the person defamed, or by any other improper motive, and if the manner of the publication is such as is ordinarily and fairly used in the case of the publication of news.

(3) In this section—

**“public meeting”** means and includes any meeting lawfully held for a lawful purpose, and for the furtherance or discussion in good faith of a matter of public concern, or for the advocacy of the candidature of any person for a public office, whether the admission to the meeting was open or restricted.

(4) In the case of a publication of a report of the proceedings of a public meeting in a periodical, it is evidence of want of good faith if the proprietor, publisher, or editor, has been requested by the person defamed to publish in the periodical a reasonable letter or statement by way of contradiction or explanation of the defamatory matter, and has refused or neglected to publish the same.

## 14 Protection—fair comment

(1) It is lawful—

- (a) to publish a fair comment respecting any of the matters with respect to which the publication of a fair report in good faith for the information of the public is by section 13 declared to be lawful;
- (b) to publish a fair comment respecting the public conduct of any person who takes part in public affairs, or respecting the character of any such person, so far as the person’s character appears in that conduct;
- (c) to publish a fair comment respecting the conduct of any public officer or public servant in the discharge of his or her public functions, or respecting the character of any such person, so far as his or her character appears in that conduct;
- (d) to publish a fair comment respecting the merits of any case, civil or criminal, which has been decided by any court of justice, or

*Defamation Act 1889*

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respecting the conduct of any person as a judge, party, witness, counsel, solicitor, or officer of the court, in any such case, or respecting the character of any such person, so far as the person's character appears in that conduct;

- (e) to publish a fair comment respecting any published book or other literary production, or respecting the character of the author, so far as the author's character appears by such book or production;
- (f) to publish a fair comment respecting any composition or work of art, or performance publicly exhibited, or respecting the character of the author or performer or exhibitor, so far as his or her character appears from the matter exhibited;
- (g) to publish a fair comment respecting any public entertainment or sports, or respecting the character of any person conducting or taking part therein, so far as the person's character appears from the matter of the entertainment or sports, or the manner of conducting the same;
- (h) to publish a fair comment respecting any communication made to the public on any subject.

(2) Whether a comment is or is not fair is a question of fact.

(3) If it is not fair, and is defamatory, the publication of it is unlawful.

**15 Protection—truth**

It is lawful to publish defamatory matter if the matter is true, and if it is for the public benefit that the publication complained of should be made.

**16 Qualified protection—excuse**

(1) It is a lawful excuse for the publication of defamatory matter—

- (a) if the publication is made in good faith by a person having over another any lawful authority in the course of a censure passed by the person on the conduct of that other in matters to which such lawful authority relates;
- (b) if the publication is made in good faith for the purpose of seeking remedy or redress for some private or public wrong or grievance from a person who has, or whom the person making the publication believes, on reasonable grounds, to have, authority

*Defamation Act 1889*

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over the person defamed with respect to the subject matter of such wrong or grievance;

- (c) if the publication is made in good faith for the protection of the interests of the person making the publication, or of some other person, or for the public good;
- (d) if the publication is made in good faith in answer to an inquiry made of the person making the publication relating to some subject as to which the person by whom or on whose behalf the inquiry is made has, or is believed, on reasonable grounds, by the person making the publication to have, an interest in knowing the truth;
- (e) if the publication is made in good faith for the purpose of giving information to the person to whom it is made with respect to some subject as to which that person has, or is believed, on reasonable grounds, by the person making the publication to have, such an interest in knowing the truth as to make the person's conduct in making the publication reasonable under the circumstances;
- (f) if the publication is made in good faith on the invitation or challenge of the person defamed;
- (g) if the publication is made in good faith in order to answer or refute some other defamatory matter published by the person defamed concerning the person making the publication or some other person;
- (h) if the publication is made in good faith in the course of, or for the purposes of, the discussion of some subject of public interest, the public discussion of which is for the public benefit, and if, so far as the defamatory matter consists of comment, the comment is fair.

(2) For the purposes of this section, a publication is said to be made in good faith if the matter published is relevant to the matters the existence of which may excuse the publication in good faith of defamatory matter; if the manner and extent of the publication does not exceed what is reasonably sufficient for the occasion; and if the person by whom it is made is not actuated by ill will to the person defamed, or by any other improper motive, and does not believe the defamatory matter to be untrue.

**17 Good faith**

When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence.

**PART 5—QUESTIONS OF FACT AND LAW****18 Questions of fact and law**

(1) The question whether any matter is or is not defamatory is a question of fact.

(2) The question whether any matter alleged to be defamatory is or is not capable of bearing a defamatory meaning is a question of law.

**19 Relevancy and public benefit questions of fact**

Whether any defamatory matter is or is not relevant to any other matter, and whether the public discussion of any subject is or is not for the public benefit, are questions of fact.

**PART 6—ORAL DEFAMATION****20 Trivial matters not in writing**

In any case other than that of words intended to be read, it is a good defence to an action for defamation, or a prosecution for publishing defamatory matter, to prove that the publication was made on an occasion and under circumstances when the person defamed was not likely to be injured thereby.

## **PART 7—PROVISIONS APPLYING TO ACTIONS FOR DEFAMATION**

### **21 Offer of an apology admissible in evidence in mitigation of damages**

In an action for defamation the defendant may plead and prove in mitigation of damages that the defendant made or offered an apology to the plaintiff for such defamation before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering such apology, as soon afterwards as the defendant had an opportunity of doing so.

### **22 In an action against a newspaper for libel the defendant may plead that it was inserted without malice and without neglect and may pay money into court as amends**

(1) In an action for the publication of defamatory matter in a periodical, the defendant may plead that such matter was published without actual ill will to the person defamed or other improper motive, and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, the defendant inserted in such periodical a full apology for such defamation, or, if the periodical in which the defamatory matter appeared was ordinarily published at intervals exceeding 1 week, offered to publish the apology in any periodical to be selected by the plaintiff.

(2) The defendant must, upon pleading such defence, pay into court a sum of money by way of amends for the injury sustained by the publication of the defamatory matter, and such payment into court shall be of the same effect in all respects as in other cases of payment into court.

### **23 Consolidation of actions**

(1) The court or a judge, upon an application by or on behalf of 2 or more defendants in actions in respect of the publication of the same, or substantially the same, defamatory matter brought by one and the same person, may make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the actions, the defendant in any new action instituted in respect of the publication of the same, or substantially the same, defamatory matter

shall also be entitled to be joined in a common action upon a joint application being made by such new defendant and the defendants in the actions already consolidated.

(2) In an action consolidated under this section the judge or jury shall assess the whole amount of the damages (if any) in one sum, but a separate verdict shall be given for or against each defendant in the same way as if the actions consolidated had been tried separately; and if a verdict is given against the defendants in more than 1 of the actions so consolidated, the judge or jury shall proceed to apportion the amount of damages so found between and against the lastmentioned defendants; and the judge at the trial, if the judge awards to the plaintiff the costs of the action, shall thereupon make such order as the judge deems just for the apportionment of such costs between and against such defendants.

## **24 Evidence in mitigation of damages**

At the trial of an action for the publication of defamatory matter in a periodical the defendant may give in evidence in mitigation of damages that the plaintiff has already recovered, or has brought actions for, damages, or has received or agreed to receive compensation, in respect of other publications of defamatory matter to the same purport or effect as the matter for the publication of which the action is brought.

## **25 Protection of innocent sellers of periodicals**

No person incurs any liability as for defamation by selling any number or part of a periodical unless the person knows that such number or part contains defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical.

## **26 Protection of innocent sellers of books**

No person incurs any liability as for defamation by selling a book, pamphlet, print, or writing, or other thing not forming part of a periodical, although it contains defamatory matter, if at the time of the sale the person does not know that the defamatory matter is contained therein.



**27 Protection of employers**

The sale by an employee of a book, pamphlet, print, or writing, or other thing, whether a periodical or not, does not make his or her employer responsible in respect of defamatory matter contained therein, unless it is proved that such employer authorised the sale knowing that the book, pamphlet, print, writing, or other thing contained defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently published therein.

**28 Imprimatur to be prima facie evidence of publication of book or periodical**

Upon the trial of an action for unlawfully publishing defamatory matter contained in a book or periodical, the production of the book, or of a number or part of the periodical, containing a printed statement that it is printed or published by or for the defendant, shall be prima facie evidence of the publication of the book, or of the number or part of the periodical, by the defendant.

**29 Levy of damages etc. by plaintiff obtaining judgment**

(1) Whenever any person is convicted in an action of publishing any defamatory matter by means of printing, the plaintiff in whose favour judgment is given may under the plaintiff's writ of execution levy the damages, penalty, and costs out of any property of the defendant in like manner as in ordinary civil actions, and also out of the whole of the types, presses, or printing materials in which the defendant had any beneficial use or interest at or subsequent to the time of the printing of the said defamatory matter, and out of the whole of the types, presses, or printing materials in which any person who personally or by his or her employees, or agents printed the said defamatory matter had any beneficial use or interest at or subsequent to the time of the printing of the said defamatory matter, to whomsoever the same in either case may belong at the time of the levy.

(2) However, the plaintiff in whose favour judgment is given shall be required under the plaintiff's writ of execution to levy the damages, penalty, and costs out of the property of the defendant, in the first instance; and if the property of such defendant is found insufficient to satisfy such damages, penalty, and costs, the plaintiff concerned, in the next instance, shall levy the remainder of such damages, penalty, and costs out of the whole of the types, presses, or printing materials in which the defendant

had any beneficial use or interest at or subsequent to the time of the printing of the said defamatory matter; and if then such judgment is not fully satisfied, the plaintiff concerned, in the final instance, shall levy, after the levy in the preceding 2 instances as aforesaid, the remainder of such damages, penalty, and costs out of the whole of the types, presses, or printing materials in which any person who personally or by his or her employees, or agents printed the said defamatory matter had any beneficial use or interest at or subsequent to the time of the printing of the said defamatory matter, to whomsoever the same may belong at the time of the levy.

## **PART 8—PROVISIONS APPLYING TO PROSECUTIONS FOR DEFAMATION**

### **30 Liability of proprietor, publisher and editor of periodicals**

(1) Upon a charge against a proprietor, publisher, or editor, of a periodical, of the unlawful publication in the periodical of defamatory matter, it is a defence to prove that the matter complained of was inserted in the periodical without the person's knowledge and without negligence on the person's part.

(2) General authority given to the person who actually inserted the defamatory matter to manage or conduct the periodical as editor or otherwise, and to insert therein what in the person's discretion the person thinks fit, is not negligence within the meaning of this section, unless it is proved that the proprietor or publisher or editor, when giving such general authority, meant that it should extend to and authorise the unlawful publication of defamatory matter, or continued such general authority, knowing that it had been exercised by unlawfully publishing defamatory matter in any number or part of the periodical.

### **31 Protection of innocent sellers of periodicals**

A person is not criminally responsible as for the unlawful publication of defamatory matter merely by reason of selling any number or part of a periodical containing the defamatory matter, unless the person knows that such number or part contains the defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical.

**32 Protection of innocent sellers of books**

A person is not criminally responsible as for the unlawful publication of defamatory matter merely by reason of selling a book, pamphlet, print, or writing, or other thing not forming part of a periodical, although it contains the defamatory matter, if at the time of the sale the person does not know that the defamatory matter is contained therein.

**33 Protection of employers**

An employer is not responsible as for the unlawful publication of defamatory matter merely by reason of the sale by the employer's employee of a book, pamphlet, print, writing, or other thing, whether a periodical or not, containing the defamatory matter, unless it is proved that the employer authorised the sale, knowing that the book, pamphlet, print, writing, or other thing, contained the defamatory matter, or, in the case of a number or part of a periodical, that defamatory matter was habitually or frequently contained in that periodical.

**34 Prosecution of newspapers to be by sanction of a judge after notice**

A criminal prosecution cannot be begun before justices against the proprietor, or publisher, or editor, or any person responsible for the publication, of any periodical, for the unlawful publication of any defamatory matter contained therein, without the order of the Supreme Court or a judge thereof, made after notice to the person accused, and after that person has had an opportunity of being heard in opposition to the application for the order.

**35 Summary jurisdiction in trivial cases of defamation**

If, on the hearing before a justice of a charge of the unlawful publication of defamatory matter, the justice is of opinion that a case has been made out against the accused person but that the case is of a trivial nature, the justice may ask the person whether the person desires to be tried by a jury, or consents to the charge being dealt with summarily, and if the accused person consents to the charge being dealt with summarily, the accused person may be summarily convicted before 2 justices, and is liable on such conviction to a fine of 2 penalty units.

**36 Evidence on trial for defamation**

On the trial of a person charged with the unlawful publication of defamatory matter which is contained in a periodical, after evidence sufficient in the opinion of the court has been given of the publication by the accused person of the number or part of the periodical containing the matter complained of, other writings or prints purporting to be other numbers or parts of the same periodical previously or subsequently published, and containing a printed statement that they were published by or for the accused person, are admissible in evidence on either side, without further proof of publication of them.

**37 Costs in cases of defamation**

(1) In the case of a prosecution of any person on the complaint of a private prosecutor on a charge of the unlawful publication of defamatory matter, if the accused person is acquitted the person is entitled to recover from the prosecutor the person's costs of defence, unless the court otherwise orders.

(2) In the case of a prosecution of any person on the complaint of a private prosecutor on a charge of the unlawful publication of defamatory matter, if the accused person pleads that the defamatory matter was true and that it was for the public benefit that the publication should be made, then, if that issue is found for the prosecution, the prosecutor is entitled to recover from the accused person the costs sustained by the prosecutor by reason of such plea, unless the court otherwise orders.

**38 Levy of fine and costs on conviction for defamation**

When any person is convicted of the unlawful publication of any defamatory matter which was published by means of printing, the prosecutor may levy the fine (if any) and costs out of any property of the offender in like manner as in civil actions, and also out of the whole of the types, presses, or printing materials, which, at the time when the offence was committed, belonged to any person to whom any types, presses, or printing materials, used in printing such defamatory matter, belonged at the time when the offence was committed, to whomsoever the same may belong at the time of the levy.

**39 Proceedings for offences**

An offence against this Act is a summary offence.

## ENDNOTES

### 1 Index to endnotes

		Page
2	Date to which amendments incorporated . . . . .	20
3	Key . . . . .	20
4	Table of reprints . . . . .	21
5	Tables in earlier reprints . . . . .	21
6	List of legislation . . . . .	21
7	List of annotations . . . . .	23

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 28 March 2003. Future amendments of the Defamation Act 1889 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	to 1995 Act No. 37	16 June 1995	7 July 1995
2	to 1995 Act No. 58	28 November 1995	15 December 1995 (Column discontinued) Notes
2A	to 2003 Act No. 8	28 March 2003	

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Comparative legislation	1
Corrected minor errors	1
Renumbered provisions	1

## 6 List of legislation

### **Defamation Act 1889 (prev Defamation Law of Queensland (1889) 53 Vic No. 12)**

date of assent 11 October 1889

commenced on date of assent

Note— (1) This Act contains provisions that were relocated from the Criminal Code [1899].

(2) A list of legislation for the relocated provisions appears below.

amending legislation—

### **Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3**

date of assent 28 November 1899

commenced on date of assent

### **Acts Citation Act 1903 3 Edw 7 No. 10 s 10 sch 3 (prev Acts Shortening Act Amendment Act 1903)**

date of assent 13 November 1903

commenced on date of assent

**Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1**

date of assent 23 December 1908  
commenced on date of assent

**Defamation Law of Queensland Amendment Act 1930 21 Geo 5 No. 10**

date of assent 2 October 1930  
commenced on date of assent

**Criminal Code No. 37 of 1995 ss 1–2, 459(1)–(2), sch 3 pt 1**

date of assent 16 June 1995  
commenced on date of assent (see s 2(2))

**List of legislation to Criminal Code [1899] ch 35, ss 640, 661 and ch 66—before relocation of ch 35, ss 640, 661 and ch 66 to Defamation Act 1889****Original relocated Code****Criminal Code [1899] (sch 1 to 63 Vic No. 9) ch 35, ss 640, 661, and ch 66**

date of assent 28 November 1899  
commenced 1 January 1901 (see s 2 of Act)

amending legislation—

**Corrective Services (Consequential Amendments) Act 1988 No. 88 s 5 sch 2**

date of assent 1 December 1988  
commenced 15 December 1988 (see s 2(2) and o in c pubd gaz 10 December 1988 p 1675)

**Criminal Code No. 37 of 1995 ss 1–2, 459(2), sch 3 pt 1 div 2 (this Act is amended, see amending legislation below)**

date of assent 16 June 1995  
commenced on date of assent (see s 2(2))

amending legislation—

**Statute Law Revision Act (No. 2) 1995 No. 58 s 4 sch 1 (amends 1995 No. 37 above)**

date of assent 28 November 1995  
ss 1–2, 4 commenced on date of assent  
remaining provisions commenced 16 June 1995 (see s 4 sch 1)

**Amending legislation to Defamation Act 1889—after relocation of Criminal Code [1899] ch 35, ss 640, 661 and ch 66****Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**Parliament of Queensland Amendment Act 2003 No. 8 ss 1, 17 sch**

date of assent 28 March 2003  
commenced on date of assent



## **7 List of annotations**

### **Preamble**

om 1908 8 Edw 7 No. 18 s 2 sch 1

### **Enacting words**

amd 1908 8 Edw 7 No. 18 s 2 sch 1

### **PART 1—PRELIMINARY**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

### **Short title**

**s 1** sub 1995 No. 37 s 459(1) sch 3

### **Act not to apply to slander of title**

**prov hdg** amd 1903 3 Edw 7 No. 7 s 10 sch 3

**s 2** prev s 2 om 1908 8 Edw 7 No. 18 s 2 sch 1

pres s 2 (prev s 46) amd 1899 63 Vic No. 9 s 3(2) sch 3; 1903 3 Edw 7 No. 10 s 10 sch 3

reloc 1995 No. 37 s 459(1) sch 3

### **PART 2—INTERPRETATION**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

### **Defamation**

**hdg (prec s 4)** om R1 (see RA s 39 and 1899 63 Vic No. 9 s 3(2) sch 3; 1995 No. 37 s 459(1) sch 3)

### **Definition of “defamatory matter”**

**s 4** prev s 4 om 1899 63 Vic No. 9 s 3(2) sch 3

pres s 4 (prev 1899 63 Vic No. 9 s 366)

reloc 1995 No. 37 s 459(2) sch 3

### **Meaning of “defamation” and “publication”**

**prov hdg** sub 1995 No. 58 s 4 sch 1

**s 5** prev s 5 om 1899 63 Vic No. 9 s 3(2) sch 3

pres s 5 (prev 1899 63 Vic No. 9 s 368)

reloc 1995 No. 37 s 459(2) sch 3

new (2) (prev s 6) om 1899 63 Vic No. 9 s 3(2) sch 3

(prev 1899 63 Vic No. 9 s 369)

reloc 1995 No. 37 s 459(2) sch 3

renum 1995 No. 58 s 4 sch 1

### **PART 3—PUBLICATION OF DEFAMATORY MATTER**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

### **Publication of defamatory matter prima facie unlawful**

**s 6** prev s 6 renum as s 5(2) 1995 No. 58 s 4 sch 1

pres s 6 (prev s 7) om 1899 63 Vic No. 9 s 3(2) sch 3

(prev 1899 63 Vic No. 9 s 370)

reloc 1995 No. 37 s 459(2) sch 3

renum 1995 No. 58 s 4 sch 1

**Defamation actionable**

- s 7** prev s 7 renum as s 6 1995 No. 58 s 4 sch 1  
 pres s 7 (prev s 8 (prev s 9)) om 1899 63 Vic No. 9 s 3(2) sch 3  
 renum 1995 No. 37 s 459(1) sch 3  
 renum 1995 No. 58 s 4 sch 1

**Unlawful publication of defamatory matter**

- s 8** prev s 8 (prev s 9) renum as s 7 1995 No. 58 s 4 sch 1  
 pres s 8 (prev s 9) (prev 1899 63 Vic No. 9 s 380; amd 1988 No. 88 s 5 sch 2)  
 reloc 1995 No. 37 s 459(2) sch 3  
 renum 1995 No. 58 s 4 sch 1  
 amd 1995 No. 58 s 4 sch 1

**Defamation of members of Parliament by strangers**

- s 9** prev s 9 renum as s 8 1995 No. 58 s 4 sch 1  
 pres s 9 (prev s 10) om 1899 63 Vic No. 9 s 3(2) sch 3  
 (prev 1899 63 Vic No. 9 s 381; amd 1988 No. 88 s 5 sch 2)  
 reloc 1995 No. 37 s 459(2) sch 3  
 renum 1995 No. 58 s 4 sch 1  
 amd 1995 No. 58 s 4 sch 1

**PART 4—PROTECTION**

- pt hdg** ins 1995 No. 37 s 459(1) sch 3

**Absolute protection—privilege of Parliament**

- s 10** prev s 10 renum as s 9 1995 No. 58 s 4 sch 1  
 pres s 10 (prev s 10A) (prev 1899 63 Vic No. 9 s 371)  
 reloc 1995 No. 37 s 459(2) sch 3 (as amd 1995 No. 58 s 4 sch 1)  
 renum 1995 No. 58 s 4 sch 1

**Absolute protection—privileges of judges, witnesses and others in courts of justice**

- s 11** prev s 11 om 1899 63 Vic No. 9 s 3(2) sch 3  
 pres s 11 (prev 1899 63 Vic No. 9 s 372)  
 reloc 1995 No. 37 s 459(2) sch 3

**Absolute protection—reports of official inquiries**

- s 12** prev s 12 om 1899 63 Vic No. 9 s 3(2) sch 3  
 pres s 12 (prev 1899 63 Vic No. 9 s 373)  
 reloc 1995 No. 37 s 459(2) sch 3

**Protection—reports of matters of public interest**

- s 13** prev s 13 om 1899 63 Vic No. 9 s 3(2) sch 3  
 pres s 13 (prev 1899 63 Vic No. 9 s 374)  
 reloc 1995 No. 37 s 459(2) sch 3  
 amd 2003 No. 8 s 17 sch

**Protection—fair comment**

- s 14** prev s 14 om 1899 63 Vic No. 9 s 3(2) sch 3  
 pres s 14 (prev 1899 63 Vic No. 9 s 375)  
 reloc 1995 No. 37 s 459(2) sch 3

**Protection—truth**

- s 15** prev s 15 om 1899 63 Vic No. 9 s 3(2) sch 3

pres s 15 (prev 1899 63 Vic No. 9 s 376)  
reloc 1995 No. 37 s 459(2) sch 3

**Qualified protection—excuse**

**s 16** prev s 16 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 16 (prev 1899 63 Vic No. 9 s 377)  
reloc 1995 No. 37 s 459(2) sch 3

**Good faith**

**s 17** prev s 17 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 17 (prev 1899 63 Vic No. 9 s 378)  
reloc 1995 No. 37 s 459(2) sch 3

**PART 5—QUESTIONS OF FACT AND LAW**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

**Absolute Protection**

**hdg (prec s 18)** om 1899 63 Vic No. 9 s 3(2) sch 3

**Questions of fact and law**

**s 18** prev s 18 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 18 (prev 1899 63 Vic No. 9 s 367)  
reloc 1995 No. 37 s 459(2) sch 3

**Relevancy and public benefit questions of fact**

**s 19** prev s 19 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 19 (prev 1899 63 Vic No. 9 s 379)  
reloc 1995 No. 37 s 459(2) sch 3

**PART 6—ORAL DEFAMATION**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

**Oral Defamation**

**hdg (prec s 20)** om 1995 No. 37 s 459(1) sch 3

**Trivial matters not in writing**

**s 20** amd 1899 63 Vic No. 9 s 3(2) sch 3; 1995 No. 37 s 459(1) sch 3

**PART 7—PROVISIONS APPLYING TO ACTIONS FOR DEFAMATION**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

**Provisions in respect of Actions for Defamation**

**hdg (prec s 21)** om 1995 No. 37 s 459(1) sch 3

**Protection of innocent sellers of periodicals**

**s 25** prev s 25 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 25 (prev s 34) renum 1995 No. 37 s 459(1) sch 3

**Protection of innocent sellers of books**

**s 26** prev s 26 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 26 (prev s 35) renum 1995 No. 37 s 459(1) sch 3

**Protection of employers**

**prov hdg** pres s 27 (prev s 36) amd 3 Edw 7 No. 10 s 10 sch 3  
**s 27** prev s 27 om 1899 63 Vic No. 9 s 3(2) sch 3

pres s 27 (prev s 36) amd 1903 3 Edw 7 No. 10 sch 3  
renum 1995 No. 37 s 459(1) sch 3

**Imprimatur to be prima facie evidence of publication of book or periodical**

**s 28** prev s 28 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 28 (prev s 38) renum 1995 No. 37 s 459(1) sch 3

**Levy of damages etc. by plaintiff obtaining judgment**

**s 29** prev s 29 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 29 (prev s 43) amd 1899 63 Vic No. 9 s 3(2) sch 3  
sub 1930 21 Geo 5 No. 10 s 2  
renum 1995 No. 37 s 459(1) sch 3

**PART 8—PROVISIONS APPLYING TO PROSECUTIONS FOR DEFAMATION**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3

**Liability of proprietor, publisher and editor of periodicals**

**s 30** prev s 30 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 30 (prev 1899 63 Vic No. 9 s 384)  
reloc 1995 No. 37 s 459(2) sch 3

**Protection of innocent sellers of periodicals**

**s 31** prev s 31 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 31 (prev 1899 63 Vic No. 9 s 385)  
reloc 1995 No. 37 s 459(2) sch 3

**Protection of innocent sellers of books**

**s 32** prev s 32 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 32 (prev 1899 63 Vic No. 9 s 386)  
reloc 1995 No. 37 s 459(2) sch 3

**Protection of employers**

**s 33** prev s 33 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 33 (prev 1899 63 Vic No. 9 s 387)  
reloc 1995 No. 37 s 459(2) sch 3

**Prosecution of newspapers to be by sanction of a judge after notice**

**s 34** prev s 34 renum as s 25 1995 No. 37 s 459(2) sch 3  
pres s 34 (prev 1899 63 Vic No. 9 s 388)  
reloc 1995 No. 37 s 459(2) sch 3

**Summary jurisdiction in trivial cases of defamation**

**s 35** prev s 35 renum as s 26 1995 No. 37 s 459(2) sch 3  
pres s 35 (prev 1899 63 Vic No. 9 s 389)  
reloc 1995 No. 37 s 459(2) sch 3  
amd 1995 No. 58 s 4 sch 1

**Evidence on trial for defamation**

**s 36** prev s 36 renum as s 27 1995 No. 37 s 459(2) sch 3  
pres s 36 (prev 1899 63 Vic No. 9 s 640)  
reloc 1995 No. 37 s 459(2) sch 3

**Costs in case of defamation**

**s 37** prev s 37 om 1899 63 Vic No. 9 s 3(2) sch 3

pres s 37 (prev 1899 63 Vic No. 9 s 661)  
reloc 1995 No. 37 s 459(2) sch 3

**Evidence**

**hdg (prec s 38)** om 1995 No. 37 s 459(1) sch 3

**Levy of fine and costs on conviction for defamation**

**s 38** prev s 38 renum as s 28 1995 No. 37 s 459(2) sch 3  
pres s 38 (prev 1899 63 Vic No. 9 s 667)  
reloc 1995 No. 37 s 459(2) sch 3

**Proceedings for offences**

**s 39** prev s 39 om 1899 63 Vic No. 9 s 3(2) sch 3  
pres s 39 ins 1995 No. 37 s 459(1) sch 3

**PART 9—SAVINGS PROVISION**

**pt hdg** ins 1995 No. 37 s 459(1) sch 3  
om R2 (see RA s 7(1)(k))

**Staying Proceedings**

**hdg (prec s 40)** om 1995 No. 37 s 459(1) sch 3

**Saving of previous defences**

**s 40** amd 1899 63 Vic No. 9 s 3(2) sch 3  
sub 1995 No. 37 s 459(1) sch 3  
om R2 (see RA s 37)

**Proceedings to be stayed when commenced in respect of the publication of a copy of the authenticated report, &c., on affidavit verifying such copy being laid before the court**

**s 41** amd 1899 63 Vic No. 9 s 3(2) sch 3  
om 1995 No. 37 s 459(1) sch 3

**Remedy for Costs and Damages**

**hdg (prec s 42)** om 1995 No. 37 s 459(1) sch 3

**On private prosecution defendant entitled to costs on acquittal**

**s 42** om 1899 63 Vic No. 9 s 3(2) sch 3

**Operation of Act**

**hdg (prec s 44)** om 1995 No. 37 s 459(1) sch 3

**Application of rules declared by Act**

**s 44** amd 1899 63 Vic No. 9 s 3(2) sch 3  
om 1995 No. 37 s 459(1) sch 3

**Saving**

**s 45** om 1899 63 Vic No. 9 s 3(2) sch 3

**THE SCHEDULE**

om 1908 8 Edw 7 No. 18 s 2 sch 1

