



LAWS OF MALAYSIA

REPRINT

Act 286

DEFAMATION ACT 1957

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DEFAMATION ACT 1957

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LAWS OF MALAYSIA**Act 286****DEFAMATION ACT 1957**

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SCHEDULE

LAWS OF MALAYSIA**Act 286****DEFAMATION ACT 1957**

An Act relating to the law of libel and slander and other malicious falsehoods.

[*Peninsular Malaysia—1 July 1957;*
Sabah and Sarawak—6 May 1965,
L.N. 179/1965]

Short title

1. This Act may be cited as the Defamation Act 1957.

Interpretation

2. In this Act, unless the context otherwise requires—

“broadcasting by means of radio communication” means publication for general reception by means of a radio communication within the meaning of the *Telecommunications Act 1950 [Act 20], and includes the transmission simultaneously by telecommunication line in accordance with a licence granted in that behalf under the Telecommunications Act of words broadcast by means of radio communication;

“newspaper” means any paper containing public news or observations thereon or consisting wholly or mainly of advertisements which is printed for sale and is published in Malaysia either periodically or in parts or numbers at intervals not exceeding thirty-six days;

“public meeting” means a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern whether the admission to the meeting is general or restricted;

*NOTE—The Telecommunications Act 1950 [Act 20] has since been repealed by the Communications and Multimedia Act 1998 [Act 588]—see section 273 of Act 588.

“words” includes pictures, visual images, gestures and other methods of signifying meaning.

Broadcast statements

3. For the purpose of the law of libel and slander the broadcasting of words by means of radio communication shall be treated as publication in a permanent form.

Slander of women

4. Words spoken and published which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable.

Slander affecting official, professional, or business reputation

5. In an action for slander in respect of words calculated to disparage the plaintiff in any office, profession, calling, trade or business held or carried on by him at the time of the publication, it shall not be necessary to allege or prove special damage whether or not the words are spoken of the plaintiff in the way of his office, profession, calling, trade or business.

Slander of title, *etc.*

6. (1) In any action for slander of title, slander of goods or other malicious falsehood, it shall not be necessary to allege or prove special damage—

(a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form; or

(b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.

(2) Section 3 of this Act shall apply for the purposes of this section as it applies for the purposes of the law of libel and slander.

Unintentional defamation

7. (1) A person who has published words alleged to be defamatory of another person may, if he claims that the words were published by him innocently in relation to that other person, make an offer of amends under this section; and in any such case—

(a) if the offer is accepted by the party aggrieved and is duly performed, no proceedings for libel or slander shall be taken or continued by that party against the person making the offer in respect of the publication in question (but without prejudice to any cause of action against any other person jointly responsible for that publication);

(b) if the offer is not accepted by the party aggrieved, then, except as otherwise provided by this section, it shall be a defence, in any proceedings by him for libel or slander against the person making the offer in respect of the publication in question, to prove that the words complained of were published by the defendant or were published by the defendant innocently in relation to the plaintiff and that the offer was made as soon as practicable after the defendant received notice that they were or might be defamatory of the plaintiff, and has not been withdrawn.

(2) An offer of amends under this section must be expressed to be made for the purposes of this section, and must be accompanied by an affidavit specifying the facts relied upon by the person making it to show that the words in question were published by him innocently in relation to the party aggrieved; and for the purposes of a defence under paragraph 7(1)(b) no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of that person to prove that the words were so published.

(3) An offer of amends under this section shall be understood to mean an offer—

(a) in any case, to publish or join in the publication of a suitable correction of the words complained of, and a sufficient apology to the party aggrieved in respect of those words;

(b) where copies of a document or record containing the said words have been distributed by or with the knowledge of the person making the offer, to take such steps as are

reasonably practicable on his part for notifying persons to whom copies have been so distributed that the words are alleged to be defamatory of the party aggrieved.

(4) Where an offer of amends under this section is accepted by the party aggrieved—

- (a) any question as to the steps to be taken in fulfilment of the offer as so accepted shall in default of agreement between the parties be referred to and determined by the High Court, whose decision thereon shall be final;
- (b) the power of the Court to make orders as to costs in proceedings by the party aggrieved against the person making the offer in respect of the publication in question, or in proceedings in respect of the offer under paragraph 7(4)(a), shall include power to order the payment by the person making the offer to the party aggrieved of costs on an indemnity basis and any expenses reasonably incurred or to be incurred by that party in consequence of the publication in question,

and if no such proceedings as aforesaid are taken, the High Court may, upon application made by the party aggrieved, make any such order for the payment of such costs and expenses as aforesaid as could be made in such proceedings.

(5) For the purposes of this section words shall be treated as published by one person (in this subsection referred to as the publisher) innocently in relation to another person if and only if the following conditions are satisfied, that is to say—

- (a) that the publisher did not intend to publish them of and concerning that other person, and did not know of circumstances by virtue of which they might be understood to refer to him; or
- (b) that the words were not defamatory on the face of them, and the publisher did not know of circumstances by virtue of which they might be understood to be defamatory of that other person,

and in either case that the publisher exercised all reasonable care in relation to the publication; and any reference in this subsection to the publisher shall be construed as including a reference to any servant or agent of his who was concerned with the contents of the publication.

(6) Paragraph 7(1)(b) shall not apply in relation to the publication by any person of words of which he is not the author unless he proves that the words were written by the author without malice.

Justification

8. In an action for libel or slander in respect of words containing two or more distinct charges against the plaintiff, a defence of justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges.

Fair comment

9. In an action for libel or slander in respect of words consisting partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.

Apology in mitigation of damages

10. (1) In any action for defamation the defendant may (after notice in writing of his intention to do so duly given to the plaintiff at the time of filing his written statement of his case) give in evidence, in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of such action or as soon afterwards as he had an opportunity of doing so in case the action shall have been commenced before there was an opportunity of making or offering such apology.

(2) In an action for libel contained in any newspaper any defendant who has paid money into court under the provisions of any written law relating to civil procedure may state in mitigation of damages, in his written statement of his case, that such libel was inserted in such newspaper without actual malice and without gross negligence and that, before the commencement of the action or at the earliest opportunity afterwards, he inserted or offered to insert in such newspaper a full apology for the said libel, or, if the newspaper

in which the said libel appeared should be ordinarily published at intervals exceeding one week, had offered to publish the said apology in any newspaper to be selected by the plaintiff in such action.

Reports of judicial proceedings

11. (1) A fair and accurate and contemporaneous report of proceedings publicly heard before any court lawfully exercising judicial authority within Malaysia and of the judgment, sentence or finding of any such court shall be absolutely privileged, and any fair and *bona fide* comment thereon shall be protected, although such judgment, sentence or finding be subsequently reversed, quashed or varied, unless at the time of the publication of such report or comment the defendant who claims the protection afforded by this section knew or ought to have known of such reversal, quashing or variation.

(2) Nothing in this section shall authorize the publication of any blasphemous, seditious or indecent matter or any matter the publication of which is prohibited by law.

Qualified privilege of newspapers

12. (1) Subject to the provisions of this section, the publication in a newspaper of any such report or other matter as is mentioned in Part I of the Schedule to this Act shall be privileged unless the publication is proved to be made with malice.

(2) In an action for libel in respect of the publication of any such report or matter as is mentioned in Part II of the Schedule to this Act, the provisions of this section shall not be a defence if it is proved that the defendant has been requested by the plaintiff to publish in the newspaper in which the original publication was made a reasonable letter or statement by way of explanation or contradiction, and has refused or neglected to do so, or has done so in a manner not adequate or not reasonable having regard to all the circumstances.

(3) Nothing in this section shall be construed as protecting the publication of any blasphemous, seditious or indecent matter or of any matter the publication of which is prohibited by law, or of any matter which is not of public concern and the publication of which is not for the public benefit.

(4) Nothing in this section shall be construed as limiting or abridging any privilege subsisting (otherwise than by virtue of the Libel Enactment of the Federated Malay States [*F.M.S. Cap. 70*] and the Libel Ordinance of the Straits Settlements [*S.S. Cap. 56*] repealed by this Act) immediately before the commencement of this Act.

Application of Act to broadcasting

13. (1) The provisions of this Act shall apply in relation to reports or matters broadcast by means of radio communication as part of any programme or service provided by means of a broadcasting station within Malaysia, and in relation to any broadcasting by means of radio communication of any such report or matter, as they apply in relation to reports and matters published in a newspaper and to publication in a newspaper.

(2) Subsection 10(2) shall have effect in relation to such broadcasting as if for the words “to insert in such newspaper” there were substituted the words “to publish in the same manner” and subsection 12(2) shall have effect in relation to any such broadcasting, as if for the words “in the newspaper in which” there were substituted the words “in the manner in which”.

(3) In this section “broadcasting station” means any radio communication station in respect of which a licence granted under the *Telecommunications Act 1950, being a licence which (by whatever form of words) authorizes the use of the station for the purpose of providing broadcasting services for general reception.

Limitation of privilege at elections

14. A defamatory statement published by or on behalf of a candidate in any election to a local authority or to the Dewan Rakyat or any Legislative Assembly or other elected or partially elected body shall not be deemed to be published on a privileged occasion on the ground that it is material to a question in issue in the election, whether or not the person by whom it is published is qualified to vote at the election.

*NOTE—The Telecommunications Act 1950 [*Act 20*] has since been repealed by the Communications and Multimedia Act 1998 [*Act 588*]*—see* section 273 of Act 588.

Agreements for indemnity

15. An agreement for indemnifying any person against civil liability for libel in respect of the publication of any matter shall not be unlawful unless at the time of the publication that person knows that the matter is defamatory, and does not reasonably believe there is a good defence to any action brought upon it.

Evidence of other damages recovered by plaintiff

16. In any action for libel or slander the defendant may give evidence in mitigation of damages that the plaintiff has recovered damages or has brought actions for damages, for libel or slander in respect of the publication of words to the same effect as the words on which the action is founded, or has received or agreed to receive compensation in respect of any such publication.

Consolidation of actions for libel

17. (1) Upon an application by two or more defendants in actions in respect to the same or substantially the same libel brought by one and the same person the court or a Judge may make an order for the consolidation of such actions so that they shall be tried together.

(2) After any such order has been made and before the trial of the said actions the defendants in any new actions instituted in respect of the same or substantially the same libel shall also be entitled to be joined in a common action upon a joint application by such new defendants and the defendants in the action already consolidated.

(3) The court or a Judge may, in the case of the same or substantially the same libel published simultaneously in a number of newspapers or copied shortly after publication, give notice to the plaintiff in any action or actions arising out of such libels that a period stated in such notice will be allowed for the discovery of any further publications of such libel in order that the whole of the actions arising out of such libel may be tried together, and after such period has expired no further action shall be instituted in respect of the publication of such libel except for the recovery of special damages.

(4) In a consolidated action under this section the whole amount of the damages (if any) shall be assessed in one sum but a separate judgment shall be given in respect of each defendant in the same way as if the actions consolidated had been tried separately.

(5) The amount of damages so assessed as aforesaid shall be apportioned amongst those of the defendants against whom judgment shall have been given, and if costs are given to the plaintiff the court may make such order as it shall deem just apportioning the costs amongst such last-mentioned defendants.

Separate assessment of damages in certain cases in actions for libel

18. Whenever in an action of libel the plaintiff sues more than one defendant, whether jointly, severally, or in the alternative, and evidence is given of malice in one defendant or of any other matter of aggravation which would not be admissible in evidence against any other defendant if he were sued alone, such other defendant may apply to the court to have the damages against himself and his co-defendants separately assessed, and if such application be made the court shall assess the damages separately against each defendant and no defendant shall be liable nor shall execution issue against him for any further or other damages than shall be so assessed against him.

Severance of defences

19. Whenever in any action of libel the plaintiff sues more than one defendant, whether jointly, severally, or in the alternative, each defendant may file a separate statement of his case and appear at the trial by separate counsel or if he thinks fit, apologize or pay money into court or make other amends, whatever may be the defences set up by his co-defendants, and the plaintiff may accept such apology, money, or other amends and settle or compromise the suit and discontinue the action as between himself and one or more defendants without reference to the other defendants:

Provided always that the rights and interests of the other defendant or defendants shall not in any way be prejudiced thereby.

Consolidation of actions for slander, etc.

20. Sections 17, 18 and 19 of this Act shall apply to actions for slander and to slander of title, slander of goods and other malicious falsehood as they apply to actions for libel and references in any such sections to the same or substantially the same libel shall be construed accordingly.

Transitional provisions and saving

21. (1) (*Omitted*).

(2) Nothing in this Act shall affect the provisions of the Penal Code [Act 574] or any other written law relating to criminal offences or apply to any prosecution for any criminal offence.

22. (*Omitted*).

SCHEDULE

[Subsection 12(1)]

PART I

- 1.** A fair and accurate report of proceedings—
- (a) of the legislature of any part of the Commonwealth other than in Malaysia;
 - (b) of an international organization of which Malaysia or the Government thereof is a member;
 - (c) of an international conference to which the Government sends a representative;
 - (d) before any court exercising jurisdiction throughout any part of the Commonwealth (as defined in the Constitution) outside Malaysia or a court martial held outside Malaysia under any written law in force in Malaysia or under any Act of the United Kingdom Parliament; and
 - (e) of a body or person appointed to hold a public enquiry by the Government of Malaysia or any State thereof or by the legislature of any part of the Commonwealth outside Malaysia.

2. A fair and accurate copy of or extract from any register kept in pursuance of any written law in force in Malaysia which is open to inspection by the public or which members of the public are entitled to have searched or of any other document which is required by any such law to be open to inspection by the public or to which members of the public are entitled on payment of a fee to a copy.
3. A notice, advertisement or report issued or published by or on the authority of any court within Malaysia or any Judge or officer of such court or by any public officer or receiver or trustee acting in accordance with the requirements of any written law.

PART II

[Subsection 12(2)]

STATEMENTS PRIVILEGED SUBJECT TO EXPLANATION OR CONTRADICTION

1. A fair and accurate report of the findings or decision of any association formed in Malaysia for the purpose of—
 - (i) promoting or encouraging the exercise of or any interest in any art, science, religion or learning; or
 - (ii) promoting or safeguarding the interests of any trade, business, industry or profession or of persons carrying on the same or engaged therein or the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted:

Provided that such finding or decision relates to a person who is a member of such association or is subject by virtue of any contract to the control of such association and that such association is empowered by its constitution to exercise control over or to adjudicate upon the matters to which such finding or decision relates.

2. A fair and accurate report of the proceedings of any public meeting held in Malaysia.
3. A fair and accurate report of the proceedings at any meeting or sitting in any part of Malaysia of—
 - (a) any local authority or committee thereof;
 - (b) any Commission, tribunal, committee or person appointed for the purpose of any enquiry by or under any written law or by the Yang di-Pertuan Agong, or by the Ruler, or Yang di-Pertua Negeri of any State, or by any public officer of any Government in Malaysia; or
 - (c) any other tribunal, board, Commission, committee or body whether incorporated or not constituted and exercising functions by or under any written law in force in any part of Malaysia or the Republic of Singapore or under any other lawful warrant or authority for public purposes:

Provided that such meeting or sitting is one to which admission is not denied to representatives of newspapers or other members of the public.

4. A fair and accurate report of the proceedings at a general meeting wherever held of any joint-stock company or corporation wherever registered whose business is in any way directly concerned with Malaysia or any part thereof or of any company constituted, registered or incorporated under the provisions of any written law in force in Malaysia not being a private company within the meaning of the Companies Act 1965 [*Act 125*].

 5. A copy or a fair and accurate report or summary of any notice or other matter issued for the information of the public by or on behalf of any Government in Malaysia or by any public officer or local authority.
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LAWS OF MALAYSIA**Act 286****DEFAMATION ACT 1957**

LIST OF AMENDMENTS

Amending law	Short title	In force from
*Ord. 18/1959	State of Singapore Ordinance 1959	03-06-1959
L.N. 179/1965	Modification of Laws (Defamation) (Modification and Extension to Borneo States and Singapore) Order 1965	06-05-1965

*NOTE— The State of Singapore Ordinance 1959 [*Ord. No. 18 of 1959*] has since been repealed by the Federal Statute Law Revision (Former Federation of Malaya Ordinance) Act 1965 [*Act 68 of 1965*]-See Schedule of Act 68 of 1965.

LAWS OF MALAYSIA
Act 286
DEFAMATION ACT 1957
LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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– NIL –

