Draft Regulations laid before Parliament under section 5(9) of the Defamation Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

DEFAMATION, ENGLAND AND WALES

The Defamation (Operators of Websites) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1(1)

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 5 of the Defamation Act 2013(**1**).

A draft of these Regulations was laid before Parliament in accordance with section 5(9) of that Act and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Defamation (Operators of Websites) Regulations 2013 and come into force at the same time as section 5 of the Defamation Act 2013.

(2) In these Regulations—

"the Act" means the Defamation Act 2013;

"the operator" means the operator of the website on which the statement complained of in the notice of complaint is posted;

"the poster" means the person who posted the statement complained of on the website referred to in the notice of complaint.

(3) In these Regulations, where action is to be taken by the operator within 48 hours of any point in time, any period of time which falls on Saturday, Sunday, Good Friday, Christmas Day or any day which is a bank holiday under the Banking and Financial Dealings Act 1971(**2**) in England and Wales is to be disregarded.

Notice of complaint: specified information

2. Subject to regulation 4, a notice of complaint must (as well as including the matters referred to in section 5(6)(a) to (c) of the Act)—

(a) specify the electronic mail address at which the complainant can be contacted;

(**1**) 2013 c. 26.
(**2**) 1971 c. 80.

(b) set out the meaning which the complainant attributes to the statement referred to in the notice;

(c) set out the aspects of the statement which the complainant believes are—

(i) factually inaccurate; or

(ii) opinions not supported by fact;

(d) confirm that the complainant does not have sufficient information about the poster to bring proceedings against that person; and

(e) confirm whether the complainant consents to the operator providing the poster with—

(i) the complainant's name; and

(ii) the complainant's electronic mail address.

Actions of operator in response to notice of complaint

3. Subject to regulation 4, for the purposes of section 5(3)(c) of the Act the claimant must show that the operator failed to respond to a notice of complaint in accordance with the provisions of the Schedule.

Defective notices to be treated as notice of complaint

4.—(1) Where a notice given to the operator contains a complaint that a statement on the operator's website is defamatory of the complainant but does not contain all the information required by section 5(6)(a) to (c) of the Act and by regulation 2, that notice is to be treated as a notice of complaint for the purposes of section 5(3)(b) and (c) of the Act.

(2) Where the operator receives a notice which is to be treated as a notice of complaint by virtue of paragraph (1)—

(a) regulation 3 does not apply; and

(b) for the purposes of section 5(3)(c) of the Act the claimant must show that the operator failed to send to the complainant, within 48 hours of receiving the notice, notification in writing—

(i) that the notice does not comply with the requirements set out in section 5(6)(a) to (c) of the Act and regulation 2; and

(ii) what the requirements of those provisions are.

Time limits: court discretion

5. Where in any action for defamation—

(a) an operator relies on the defence in section 5(2) of the Act; and

(b) a question arises as to whether any action required to be taken by the operator in response to a notice of complaint took place within the time limit specified in regulation 4(2)(b) or in the Schedule for taking that action,

the court may, if it considers it in the interests of justice to do so, treat any action taken after the expiry of the time limit as having been taken before the expiry.

Signed by authority of the Secretary of State

Name
Minister of State
Date Ministry of Justice