



Province of Alberta

DEFAMATION ACT

Revised Statutes of Alberta 2000
Chapter D-7

Current as of November 1, 2010

Office Consolidation

© Published by Alberta Queen's Printer

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “broadcasting” means a transmission, emission or reception to the general public of signs, signals, writing, images, sounds or intelligence of any nature by means of electromagnetic waves of frequencies lower than 3000 gigahertz;

- (b) “defamation” means libel or slander;
- (c) “newspaper” means a paper containing news, intelligence, occurrences, pictures or illustrations, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding 31 days between the publication of any 2 of the papers, parts or numbers;
- (d) “public meeting” means a meeting lawfully held in good faith for a lawful purpose and for the furtherance or discussion of a matter of public concern, whether admission to the meeting is general or restricted.

RSA 1980 cD-6 s1

Presumption of damage

2(1) An action lies for defamation.

(2) When defamation is proved, damage shall be presumed.

RSA 1980 cD-6 s2

Allegations of plaintiff

3(1) In an action for defamation, the plaintiff may allege that the matter complained of was used in a defamatory sense, specifying the defamatory sense without alleging how the matter was used in that sense.

(2) The pleading shall be put in issue by the denial of the alleged defamation, and if the matter set out, with or without the alleged meaning, shows a cause of action, the pleading is sufficient.

RSA 1980 cD-6 s3

Apology in mitigation of damages

4 In an action for defamation in which

- (a) the defendant has pleaded a denial of the alleged defamation only,
- (b) the defendant has suffered judgment by default, or
- (c) judgment has been given against the defendant on motion for judgment on the pleadings,

the defendant may give in evidence, in mitigation of damages, that the defendant made or offered a written or printed apology to the

plaintiff for the defamation before the commencement of the action or, if the action was commenced before there was an opportunity of making or offering the apology, as soon afterwards as the defendant had an opportunity.

RSA 1980 cD-6 s4

Payment into court

5 A defendant may pay into court, with the defence, a sum of money by way of amends for the injury sustained by the publication of the defamatory matter, with or without a denial of liability, and the payment has the same effect as payment into court in other cases.

RSA 1980 cD-6 s5

General and special verdicts

6(1) On the trial of an action for defamation, the jury

- (a) may give a general verdict on the whole matter in issue in the action, and
- (b) shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged defamation and of the sense ascribed to it in the action,

but the court shall, according to its discretion, give its opinion and directions to the jury on the matter in issue as in other cases, and the jury may on the issue find a special verdict if it thinks fit to do so.

(2) The proceedings after verdict, whether general or special, shall be the same as in other cases.

RSA 1980 cD-6 s6

Consolidation of actions

7(1) On an application by 2 or more defendants in 2 or more actions brought by the same person for the same or substantially the same defamation, the court may make an order for the consolidation of the actions so that they shall be tried together.

(2) After an order has been made under subsection (1) and before the trial of the actions, the defendants in any new actions instituted in respect of the same or substantially the same defamation are also entitled to be joined in a common action on a joint application by

the new defendants and the defendants in the actions already consolidated.

RSA 1980 cD-6 s7

Damages in consolidated action

8(1) In a consolidated action under section 7, the court 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.

(2) If the court or jury gives a verdict against defendants in more than one of the actions so consolidated, it shall apportion the amount of the damages between and against those defendants, and if the plaintiff is awarded the costs of the action the judge shall make an order as the judge considers just for the apportionment of the costs between and against those defendants.

RSA 1980 cD-6 s8

Defence of fair comment

9(1) If a defendant published an opinion expressed by another person, other than an employee or agent of the defendant, that is alleged to be defamatory, a defence of fair comment shall not fail by reason only that the defendant did not hold that opinion.

(2) Notwithstanding subsection (1), the defence of fair comment is not available to a defendant if it is proved that the defendant acted maliciously in making the publication.

RSA 1980 cD-6 s9

Privileged publications

10(1) A fair and accurate report published in a newspaper or by broadcasting of

- (a) a public meeting,
- (b) proceedings
 - (i) in the Senate or House of Commons of Canada,
 - (ii) in the Legislative Assembly of Alberta or any other province or territory, or
 - (iii) in a committee of those bodies,

except where neither the public nor any reporter is admitted,

- (c) a meeting of commissioners authorized to act by or pursuant to statute or other lawful warrant or authority, or
- (d) a meeting of a municipal council, Metis settlement council, school board, board of education, board of health, or of any other board or local authority formed or constituted under a public Act of Canada or of Alberta or any other province or territory, or of a committee appointed by any of those boards or local authorities,

is privileged, unless it is proved that the publication was made maliciously.

(2) The publication in a newspaper or by broadcasting, at the request of a government department, bureau or office or public officer, of a report, bulletin, notice or other document issued for the information of the public is privileged, unless it is proved that the publication was made maliciously.

(3) Nothing in this section applies to the publication of seditious, blasphemous or indecent matter.

(4) Subsections (1) and (2) do not apply when

- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant has been requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff, and the defendant fails to show that the defendant has done so, or
- (b) in the case of publication by broadcasting, the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff, and the defendant fails to show that the defendant has done so, from the broadcasting stations from which the alleged defamatory matter was broadcast, on at least 2 occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or at a time as near as possible to that time.

(5) Nothing in this section limits or abridges any privilege now by law existing, or applies to the publication of any matter not of

public concern or the publication of which is not for the public benefit.

RSA 1980 cD-6 s10;1998 c22 s10

Proceedings in court

11(1) A fair and accurate report, published in a newspaper or by broadcasting, of proceedings publicly heard before a court is absolutely privileged if

- (a) the report contains no comment,
- (b) the report is published contemporaneously with the proceedings that are the subject-matter of the report, or within 30 days thereafter, and
- (c) the report contains nothing of a seditious, blasphemous or indecent nature.

(2) Subsection (1) does not apply if

- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant has been requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff, and the defendant fails to show that the defendant has done so, or
- (b) in the case of publication by broadcasting, the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff, and the defendant fails to show that the defendant has done so, from the broadcasting stations from which the alleged defamatory matter was broadcast, on at least 2 occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or at a time as near as possible to that time.

(3) For the purposes of this section, every headline or caption in a newspaper that relates to a report in the newspaper is deemed to be a report.

RSA 1980 cD-6 s11

Actions against newspaper or broadcasting station

12 Sections 13 to 17 apply only to actions for defamation against the proprietor or publisher of a newspaper or the owner or operator of a broadcasting station or an officer, servant or employee thereof in respect of defamatory matter published in that newspaper or broadcast from that station.

RSA 1980 cD-6 s12

Notice of intention to bring action

13(1) No action lies unless the plaintiff has, within 3 months after the publication of the defamatory matter has come to the plaintiff's notice or knowledge, given to the defendant, in the case of a daily newspaper, 7, and in the case of any other newspaper or when the defamatory matter was broadcast, 14 days' notice in writing of the plaintiff's intention to bring an action, specifying the defamatory matter complained of.

(2) The notice shall be served in the same manner as a statement of claim.

RSA 1980 cD-6 s13

Place of trial

14 The action must be tried

- (a) at the judicial centre that is closest to the place where the chief office of the newspaper or of the owner or operator of the broadcasting station is situated, or
- (b) at the judicial centre that is closest to the place where the plaintiff resides

at the time the action is brought, but on the application of either party the court may direct the action to be tried or the damages to be assessed at any other judicial centre if it appears desirable in the interests of justice, and may also impose any terms with regard to the payment of fees, expenses and allowances to witnesses and otherwise that the court considers proper.

RSA 2000 cD-7 s14;2009 c53 s47

Evidence in mitigation of damages

15(1) The defendant may prove in mitigation of damages that the defamatory matter was inserted in the newspaper or was broadcast without actual malice and without gross negligence, and that before

the commencement of the action, or at the earliest opportunity afterwards, the defendant

- (a) inserted in the newspaper in which the defamatory matter was published a full and fair retraction of it and a full apology for the defamation or, if the newspaper is one ordinarily published at intervals exceeding one week, that the defendant offered to publish the retraction and apology in a newspaper to be selected by the plaintiff, or
- (b) broadcast the retraction and apology from the broadcasting stations from which the alleged defamatory matter was broadcast on at least 2 occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or at a time as near as possible to that time.

(2) The defendant may also prove in mitigation of damages that the plaintiff has already brought action for, or has recovered damages, or has received or agreed to receive compensation in respect of defamation to the same purport or effect as that for which the action is brought.

RSA 1980 cD-6 s15

Special damages

16(1) The plaintiff shall recover only special damages if it appears on the trial

- (a) that the alleged defamatory matter was published in good faith,
- (b) that there was reasonable ground to believe that the publication of it was for the public benefit,
- (c) that it did not impute to the plaintiff the commission of a criminal offence,
- (d) that the publication took place in mistake or misapprehension of the facts, and
- (e) that,
 - (i) when the alleged defamatory matter was published in a newspaper, a full and fair retraction of and a full apology for any statement therein alleged to be erroneous were published in the newspaper before

the commencement of the action and were so published in as conspicuous a place and type as was the alleged defamatory matter, or

- (ii) when the alleged defamatory matter was broadcast, the retraction and apology were broadcast from broadcasting stations from which the alleged defamatory matter was broadcast, on at least 2 occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or at a time as near as possible to that time.

(2) Subsection (1) does not apply to the case of defamation against a candidate for public office unless the retraction and apology are made editorially in the newspaper in a conspicuous manner or broadcast, as the case may be, at least 5 days before the election.

RSA 1980 cD-6 s16

Action against newspaper

17(1) No defendant in an action for defamation published in a newspaper is entitled to the benefit of sections 13 and 16 unless the name of the proprietor and publisher and address of publication are stated in a conspicuous place in the newspaper.

(2) The production in evidence of a printed copy of a newspaper is proof, in the absence of evidence to the contrary, of the publication of the printed copy and of the truth of the statements mentioned in subsection (1).

RSA 1980 cD-6 s17

Action against broadcasting station

18 If a person, by registered letter containing the person's address and addressed to a broadcasting station,

- (a) alleges that defamation against that person has been broadcast from the station, and
- (b) requests the name and address of the owner or the operator of the station or the names and addresses of the owner and the operator of the station,

sections 13 and 16 do not apply with respect to an action by that person against the owner or operator for the alleged defamation unless the person whose name and address are so requested delivers the requested information to the first mentioned person or

mails it by registered letter addressed to him or her within 10 days from the date on which the first mentioned registered letter is received at the broadcasting station.

RSA 1980 cD-6 s18

