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**DEFAMATION LAW**

**A Law to make provisions with respect to the publication of defamatory matters and for other purposes connected therewith.**

<lawnumber> [KWS 22 of 1991, No. 4 of 2006.] </lawnumber>

<lawdate> [Date of commencement: 15th August, 1991] </lawdate>

**<sections>**

**<section>**

**<heading> 1. Interpretation </heading>**

<body> (1) In this Law, unless the context otherwise requires—

**"broadcasting by means of wireless telegraphy"** means publication for general reception by means of wireless telegraphy within the meaning of the Wireless Telegraphy Act, 1961, or any enactment replacing the same and includes broadcasting by television, and **"broadcast by** **means of wireless telegraphy"** shall be construed accordingly;

"court" means in relation to any claim, the court or arbitrator, as the case may be, by or before whom the claim falls to be determined and in all other cases, any court of competent jurisdiction;

**"defamation action"** means an action arising out of the publication in any form of defamatory matter concerning a person;

**"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 Nigeria either periodically or in parts or numbers at intervals not exceeding thirty-six days;

**"publication"** means a communication or transmission of matter by a person to a person other than the person to whom the matter relates and **"publish"** has a corresponding meaning;

**"publisher"** includes a person who, knowing that a matter is defamatory, procures or assists in its publication.

(2) Any reference in this Law to published matter shall be construed as including a reference to pictures, visual images, gestures, words and other methods of signifying meaning.

(3) Where matter broadcast by means of wireless telegraphy is simultaneously transmitted by telegraph as defined by the Telegraphy Act, in accordance with a licence granted thereunder by the Minister of Communications, the provisions of this Law shall apply as if the transmission were broadcasting by means of wireless telegraphy.

(4) The provisions of Part III of the Schedule to this Law shall have effect for the purposes of the interpretation of that Schedule. </body> </section>

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PARTI

*Right of Action*

**<section>**

**<heading> 2. Defamatory matter </heading>**

<body> (1) For the purposes of this Law, a defamatory matter is published matter concerning a person which tends—

(a) to affect adversely the reputation of that person in the estimation of ordinary persons;

(a) to deter ordinary persons from associating or dealing with that person; or

(a) to injure that person in his occupation, trade, office or financial credit.

(2) For the purposes of this Law, published matter shall be regarded as matter concerning a person where it refers to the person or where a recipient of that matter having regard to the terms of the matter so published and all the surrounding circumstances, would reasonably understand that it intended to refer to that person.

(3) The question whether published matter has a particular tendency in relation to a person shall be determined according to the natural and ordinary meaning of the published matter or where, having regard to any particular circumstances likely to be known to him, a recipient would reasonably understand the matter to have a meaning other than its natural and ordinary meaning, according to that other meaning. </body> </section>

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**<heading> 3. Right of action concerning a person </heading>**

<body> Where a defamatory matter concerning a person is published, the person has a right of action against each publisher of the defamatory matter. </body> </section>

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PART II

*Defences*

**<section>**

**<heading> 4. Justification </heading>**

<body> In action for defamation in respect of published matter 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 published matter not proved to be true does not materially injure the plaintiff's reputation having regard to the truth of the remaining charges. </body> </section>

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**<heading> 5. Fair comment </heading>**

<body> In an action for defamation in respect of published matter consisting partly of allegations of fact and partly of expressions 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 published matter complained of as are proved. </body> </section>

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**<heading> 6. Limitation on privilege at elections </heading>**

<body> A defamatory matter published by or on behalf of a candidate in any election to a legislature or a local government authority in Nigeria 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. </body> </section>

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**<heading> 7. Newspaper, plea of absence of malice or negligence, etc. </heading>**

<body> In an action for defamation contained in any newspaper it shall be competent to the defendant to plead that such defamatory matter 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 in such a newspaper a full apology for the said defamatory matter or if the newspaper in which the said defamatory matter 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; and to such plea it shall be competent to the plaintiff to reply generally, denying the whole or any part to such plea. </body>

[No. 4 of 2006.] </section>

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**<heading> 8. Newspaper reports of court proceedings in Nigeria; absolute privilege </heading>**

<body> A fair and accurate report in any newspaper of proceedings publicly heard before any court exercising judicial authority within Nigeria shall if published contemporaneously with such proceedings be absolutely privileged—

Provided that nothing in this section shall authorise the publication of any blasphemous or indecent matter or any matter the publication of which is prohibited by law. </body> </section>

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**<heading> 9. Newspaper reports of certain matter: qualified privilege </heading>**

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

[Schedule.]

(2) In an action for defamation in respect of the publication of any such report or matter as is mentioned in Part II of the Schedule to this Law 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 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 at common law immediately before the commencement of this Law. </body> </section>

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**<heading> 10. Extension of certain defences to broadcasting </heading>**

<body> (1) Sections 8 and 9 of this Law shall apply in relation to reports or matter broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station within Nigeria and in relation to any broadcasting by means of wireless telegraphy of any such report or matter, as they apply in relation to reports published in a newspaper and to publication in a newspaper; and subsection (2) of the said section 9 shall have effect in relation to such broadcasting as if for the words "in the newspaper in which" there were substituted the words "in the manner in which".

(2) In this section **"broadcasting station"** means any station in respect of which a licence granted by the Minister of Communications under the enactment relating to wireless telegraphy is in force, being a licence which (by whatever form of words) authorises the use of the station for the purpose of providing broadcasting services for general reception. </body> </section>

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**<heading>11. Unintentional defamation </heading>**

<body> (1) A person who has published matter alleged to be defamatory of another person may, if he claims that the matter was 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 defamation shall be taken or continued by that party against the person making the offer in respect of the defamatory matter 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 defamation against the person making the offer in respect of the publication in question, to prove that the matter complained of was 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 it was 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 matter in question was published by him innocently in relation to the party aggrieved and for the purposes of a defence under paragraph (b) of subsection (1) of this section no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of that person to prove that the matter was 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 matter complained of, and sufficient apology to the party aggrieved in respect of that matter;

(b) where copies of a document or record containing the said matter 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 matter is 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 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 published matter in question, or in proceedings in respect of the offer under paragraph (a) of this subsection, 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 published matter in question; and if no such proceedings as aforesaid are taken, the 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 defamatory matter 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 it in respect of that other person, and did not know of circumstances by virtue of which it might be understood to refer to him; or

(b) that the matter was not defamatory on the face of it, and the publisher did not know of circumstances by virtue of which it 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 (b) of subsection (1) of this section 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. </body> </section>

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PART III

*Miscellaneous and General*

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**<heading> 12. Offer of apology admissible in evidence in mitigation of damages </heading>**

<body> In any action for defamation it shall be lawful for the defendant (after notice in writing of his intention so to do given to the plaintiff at the time of filing or delivering the plea in such action) to give in evidence, in mitigation of damages, that he made or offered an apology to the plaintiff for such defamation before the commencement of the 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. </body>

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**<heading> 13. Evidence of other damages recovered by plaintiff </heading>**

<body> In any action for defamation the defendant may give evidence in mitigation of damages that the plaintiff has recovered damages or has brought actions for damages in respect of the published matter on which the action is founded or has received or agreed to receive compensation in respect of any such published matter. </body> </section>

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**<heading> 14. Agreement for indemnity </heading>**

<body> An agreement for indemnifying any person against civil liability for defamation 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.</body> </section>

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**<heading> 15. Consolidation of actions </heading>**

<body> (1) It shall be competent for the court upon an application by or on behalf of two or more defendants, in actions in respect to the same or substantially the same defamation brought by one and the same person, to 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 said actions the defendants in any new actions instituted in respect of the same or substantially the same defamation shall also be entitled to be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

(2) In a consolidated action under this section the court shall assess the whole amount of the damages (if any) in one sum but a separate judgment shall be entered for or against each defendant in the same way as if the actions consolidated had been tried separately, and if the court shall have entered a judgment against the defendant or defendants in more than one of the actions so consolidated it shall proceed to apportion the amount of damages which it has so found as between and against the said last-mentioned defendants, and the court if it awards to the plaintiff the costs of the action shall make such order as it shall deem just for the apportionment of such costs between and against such defendants. </body> </section>

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**<heading> 16. Proceedings affected and saving </heading>**

<body> (1) This Law applies for the purposes of any proceedings begun after the commencement of the Law whenever the cause of action arose but does not affect any proceedings begun before the commencement of this Law.

(2) Nothing in this Law affects the law relating to criminal defamation. </body> </section>

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SCHEDULE

[Sections 8 and 15.]

[No. 4 of 2006.]

*Newspaper Statements having Qualified Privilege*

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PART 1

*Interpretation*

<body> 1. In this Schedule—

**"Commonwealth country"** means the whole of any territory within the Commonwealth which is subject to a separate legislature;

**"International Court"** means the International Court of Justice and any other judicial or arbitral tribunal deciding matters in dispute between states;

**"legislature"** in relation to any Commonwealth country which is subject to central and local legislatures means any of those legislatures;

**"local authority"** means any local government body established within Nigeria under any enactment. </body> </part>

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PART II

*<body> Statement Privileged without Explanation or Contradiction*

2. A fair and accurate report of any proceedings in public of the legislature of any Commonwealth country outside Nigeria.

3. A fair and accurate report of any proceedings in public of an international organisation of which the State or the Federation of Nigeria or the Government of either is a member or of any international conference to which either sends a representative.

4. A fair and accurate report of any proceeding in public of an international court.

5. A fair and accurate report of any proceedings before a court exercising jurisdiction throughout any Commonwealth country outside Nigeria or of any proceedings before a court-martial outside Nigeria.

6. A fair and accurate report of any proceedings in public of a body or person appointed to hold a public inquiry by the Government or legislature of any Commonwealth country outside Nigeria.

7. A fair and accurate copy of or extract from any register kept in pursuance of any enactment which is open to inspection by the public or of any other document which is required by any enactment to be open to inspection by the public.

8. A notice or advertisement published by or on the authority of any court within Nigeria or officer of such a court. </body> </part>

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PART III

*<body> Statements Privileged Subject to Explanation or Contradiction*

9. A fair and accurate report of the findings or decision of any of the following associations or of any committee or governing body thereof, that is to say—

(a) an association formed in Nigeria for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the Association or the actions or conduct of any person subject to such control or adjudication;

(b) an association formed in Nigeria for the purposes of promoting or safeguarding the interests of any trade, business, industry or profession or of the persons carrying on or engaged in any trade, business, industry or profession, and empowered by its Constitution to exercise control over or adjudicate upon matters connected with the trade, business, industry or profession or the actions or conduct of those persons;

(c) an association formed in Nigeria for the purpose of promoting or safeguarding the interests of any sport or past time to the playing or exercise of which members of the public are invited or admitted and empowered by its Constitution to exercise control over or adjudicate upon persons connected with or taking part, in the game, sport pastime,

being a finding or decision relating to a person who is a member of or is subject by virtue of any contract to the control of the Association.

10. A fair and accurate report of the proceeding at any public meeting held in Nigeria, that is to say a meeting bone 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.

11. A fair and accurate report of the proceedings at any meeting or sitting in any part of Nigeria of—

(a) any local authority or committee of a local authority or local authorities;

(b) any commission, tribunal, committee or person appointed for the purposes of any inquiry by or under any enactment;

(c) any person appointed by a local authority to hold a local inquiry in pursuance of any enactment;

(d) any other tribunal, board, committee or body constituted by or under or exercising functions under any enactment not being a meeting or sitting admission to which is denied to representatives of newspapers and other members of the public.

12. A fair and accurate report of the proceedings at a general meeting of any company or association constituted, registered or certified by or under any enactment not being a private company within the meaning of the Companies and Allied Matters Act.

[No. 4 of 2006.]

13. A copy or 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 department, office of state, local authority or the Inspector-General of the Nigeria Police. </body> </part>

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