[IE] New Defamation Bill

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Ireland's current defamation law is largely common law (judge-made law), partly codified and updated in the Defamation Act 1961, which was modelled on the British Act of 1956. Successive Irish governments had promised to modernise defamation law and finally a new Bill has been published. The Bill follows many of the recommendations made by the Law Reform Commission in 1991 and reconsidered by a Legal Advisory Group established by the Minister for Justice in 2003. Some of the provisions are essentially tidying-up measures and clarifications of uncertainties that had developed. Others involve more fundamental changes to the existing law. Among the most salient provisions of the new Bill are the introduction of a new defence of "fair and reasonable publication on a matter of public importance" along with a list of factors (in a similar way to the *Reynolds* defence in the UK) that the court "shall" take into account in determining the fairness and reasonableness of the publication (s.24); the abolition of common law offences of criminal libel and their replacement by a new offence of publication of gravely harmful statements (s.35); provision for directions to be given to the jury in assessing damages, again with a list of factors to which the court "shall" have regard in making an award of damages (s.29); and provision for alternative remedies to damages, for example declaratory orders (s.26) and correction orders (s.28). Despite its being a Defamation Bill, it includes a provision for the establishment of a Press Council and Press Ombudsman (s.43, Schedule 2). The framework for the establishment, composition, independence, role and *modus operandi* of the Council and Ombudsman are set out in the Bill and it is then to be left to the print media to set up and fund the scheme in accordance with the legislative provisions. The Bill is due to be debated in the Senate in the next parliamentary session.

Draft Text of Defamation Bill, 5 July 2006

http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6REJAY-ga/$File/DefamationBill06.pdf

Defamation Bill, Explanatory Memorandum, 5 July 2006

http://www.justice.ie/80256E010039C5AF/vWeb/flJUSQ6REJBM-en/$File/DefamationlExMem.pdf

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