

FACT SHEET

Defamation Amendment Bill 2021

The *Defamation Amendment Bill 2021* (the Bill) proposes to implement the Model Defamation Amendment Provisions 2020 (MDAPs) agreed by the Council of Attorneys-General (as it then was) at its meeting in late 2020 to be enacted by each Australian State and Territory.

The MDAPs seek to strike a balance between the need to provide fair remedies for a person whose reputation is harmed by a publication and the need to ensure defamation law does not place unreasonable limits on freedom of expression, particularly about matters of public interest.

The Bill proposes to insert new provisions into the *Defamation Act 2005* that include:

- providing that serious harm is an element of the cause of action for defamation;
- amendments to pre-trial procedures to encourage early resolution of disputes;
- introducing a single publication rule to ensure that the general one-year limitation period for defamation actions is effectual in relation to online publications;
- a new defence in respect of the publication of defamatory matter about issues of public interest;
- a new defence in respect of peer reviewed matters published in academic or scientific journals; and
- clarifying the operation of awards for damages for non-economic loss.

The Bill also includes section 10 from the original 2005 Model Defamation Provisions (MDPs). Section 10 of the MDPs provides that there is no cause of action for defamation of, or against, deceased persons, whether or not the defamation occurred before or after the person's death.

Section 10 was previously agreed to by Australian jurisdictions but does not currently form part of the Tasmanian Act. The proposed amendment to that section (section 10(2)) has been agreed by jurisdictions as part of the MDAPs.

The Bill is to commence on Royal Assent.