



House of Commons

Thursday 21 June 2012

PUBLIC BILL COMMITTEE PROCEEDINGS

DEFAMATION BILL

[THIRD SITTING]

Mr Jonathan Djanogly

That the Order of the Committee of 19 June be amended as follows:
In paragraph (1)(b) leave out “and 1.00 pm”.

Agreed to

Paul Farrelly

Clause 5, page 3, line 25, leave out paragraph (a) and insert— *Withdrawn 42*
(a) it was not possible for the claimant to obtain sufficient identifying details relating to the person who posted the statement so as to be able to serve that person with legal process.’

Robert Flello

Clause 5, page 3, line 25, leave out from ‘possible’ to end of line 26 and insert— *Not called 18*
(i) for the claimant to identify the person who posted the statement, and
(ii) for the claimant to contact the person who posted the statement.’

Robert Flello

Clause 5, page 3, line 27, leave out ‘the claimant gave the operator’ and insert ‘the operator was served with’. *Not called 19*

Robert Flello

Clause 5, page 3, line 30, leave out ‘any provision contained in regulations’ and insert ‘subsection (3A)’. *Not called 9*

Robert Flello

Clause 5, page 3, line 30, at end insert— *Not called 10*

Defamation Bill, *continued*

- ‘(3A) Where a complaint is received by an operator under subsection (3), the operator must publish a notice of complaint alongside the relevant statement and, if the operator fails to do so within seven days of notice of the complaint, the operator will only be entitled to rely on the standard defences available to a primary publisher, if sued for defamation.’

Robert Flello

Not called 20

Clause 5, page 3, line 30, at end insert—

- ‘(3A) The condition in sub-paragraph (3)(a)(ii) will be met if the claimant notified the web operator and the web operator did not elicit a reply (for whatever reason) from the author within a timescale provided for in regulations made under this section.’

Paul Farrelly

Not called 43

Clause 5, page 3, line 33, leave out paragraph (b) and insert—

- ‘(b) sets out the statement concerned and gives details as to why its publication is unlawful (including, for the avoidance of doubt, information as to why the statement is untrue or why other potential defences do not apply).’

Robert Flello

Not called 21

Clause 5, page 3, line 35, leave out ‘was’ and insert ‘is’.

Robert Flello

Not called 22

Clause 5, page 3, line 36, at end insert—

- ‘(e) is authorised by a court, which is satisfied on the basis of the information that it has before it, that—
- (i) the statement concerned is capable of being defamatory including having regard to section 1 (serious harm) and is capable of representing a real and substantial tort in the jurisdiction based on the extent of publication;
 - (ii) would not be likely to benefit from a defence to an action for defamation;
 - (iii) that the terms of subsection (3)(a) have been met.
- (f) may specify a time limit by which the statement complained of should be removed in order to benefit from the defence in this section.’

Paul Farrelly

Withdrawn 44

Clause 5, page 3, line 36, at end insert—

- ‘(4A) If, after service of a notice of complaint, an operator continues to publish the statement complained of, the court may, on an application by the claimant, make such order requiring the operator to take down the statement as the court considers just.’

Robert Flello

Not called 23

Clause 5, page 3, line 37, at end insert—

Defamation Bill, *continued*

- ‘(aa) make provision as to the matters to be considered by the court when considering an application to authorise the issue of a notice of complaint, including the requirements needed to satisfy subsection (3A).’.

Paul Farrelly

Not called 45

Clause 5, page 3, line 44, at end insert—

- ‘(ca) make provisions as to the procedure to be followed on the making of an application for a take down order under subsection (4A).’.

Helen Goodman

Not called 33

Clause 5, page 3, line 45, at end add—

- ‘(e) make provision to require website operators to set up and publicise a designated email address to receive notices of complaint;
(f) may require, without exception, authors to release their identities to website operators and complainants.’.

Paul Farrelly

Withdrawn 46

Clause 5, page 3, line 45, at end insert—

‘(5A) For the purposes of this section—

- (a) the term “operator of a website” includes a web host, an operator of a social media site, an operator of a search engine or any other information society service provider;
(b) an operator of a website which has an automated or manual moderation policy through which it removes or edits content posted by third parties will not be treated as the poster of a statement for the purposes of this section unless the claimant can demonstrate that—
(i) the website operator knew or ought to have known that it was facilitating the publication of unlawfully defamatory material; or
(ii) the removal or editing of the material by the website operator rendered the statement defamatory.’.

Robert Flello

Negatived on division 24

Clause 5, page 4, line 4, leave out from ‘section’ to end of line 5 and insert ‘shall not come into force without the affirmative resolution of both Houses of Parliament.’.

Robert Flello

Not selected 25

Clause 5, page 4, line 6, at end insert—

- ‘(9) In section 1(c) of the Defamation Act 1996, leave out “a defamatory” and insert “an unlawful”.’.

Clause agreed to on division.

[Adjourned until Tuesday 26 June at 10.30 am