



New South Wales

Defamation Amendment (Costs) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to provide that, in proceedings for defamation, the amount of party/party costs payable to the plaintiff is not to exceed the amount of the damages ordered to be paid to the plaintiff.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Defamation Act 1974* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 57A in the *Defamation Act 1974* to provide that, in proceedings for defamation, the amount of party/party costs payable to the plaintiff is not to exceed the amount of the damages ordered to be paid to the plaintiff.

Schedule 1 [2] inserts a transitional provision to provide that proposed section 57A does not apply in respect of proceedings commenced before the date of assent to the proposed Act.



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New South Wales

Defamation Amendment (Costs) Bill 2002

No , 2002

A Bill for

An Act to amend the *Defamation Act 1974* with respect to costs in defamation actions; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Defamation Amendment (Costs) Bill 2002</i> .	3
2 Commencement	4
This Act commences on the date of assent.	5
3 Amendment of Defamation Act 1974 No 18	6
The <i>Defamation Act 1974</i> is amended as set out in Schedule 1.	7

Schedule 1 Amendments

(Clause 3)

[1] Section 57A

Insert after section 57:

57A Plaintiff's costs not to exceed damages awarded

- (1) In proceedings for defamation, the amount of the costs of the plaintiff (or of any particular plaintiff if there is more than one plaintiff) that are payable as party/party costs in the proceedings is not to exceed the amount of the damages ordered to be paid to the plaintiff in the proceedings.
- (2) A court is not to make an order for the payment of costs in defamation proceedings that is inconsistent with this section.
- (3) In assessing the amount of those costs that is a fair and reasonable amount, a costs assessor is not to make a determination that is inconsistent with this section.
- (4) In determining the amount ordered to be paid as damages in defamation proceedings, no regard is to be had to any part of the amount ordered to be paid that is attributable to costs.
- (5) In this section:
costs means costs for legal services provided to the plaintiff by a solicitor or barrister (including by an agent or employee of the solicitor or barrister) but does not include costs charged as disbursements for services provided by any other person or other disbursements.
party/party costs means costs payable as a result of an order of the court for the payment of costs in the proceedings (including costs awarded on an indemnity basis).

[2] Schedule 3 Savings and transitional provisions	1
Insert at the end of the Schedule (with appropriate Part and clause numbers):	2 3
Part Provision consequent on enactment of Defamation Amendment (Costs) Act 2002	4 5
Application of section 57A	6
Section 57A does not apply in respect of proceedings commenced before the date of assent to the <i>Defamation Amendment (Costs) Act 2002</i> .	7 8 9