

IRELAND ANTI-SLAPP NETWORK
PROPOSED AMENDMENTS TO DEFAMATION (AMENDMENT) BILL (2024)
 October 2024

Subject/Issue	Section of the Bill	Text of the Bill	Solution	Proposed Amendment
Objective Test	Part 7, Clause 17, inserting Part 4A into Principal Act	s.34A: “unfounded claims and that are not brought to genuinely assert or exercise a right, but that have as their main purpose the prevention, restriction or penalisation of public participation” s.34E(1) requires a claim to be manifestly unfounded in order to be able to be struck out, and s.34E(2) outlines what “manifestly unfounded” means.	<p>Replacement of “but that have as their main purpose the prevention, restriction or penalisation of”, with “have the effect of preventing, restricting or penalising”.</p> <p>Replacement of “manifestly unfounded” with “an abusive lawsuit against public participation” from s.34E(1), and removal of the definition of “manifestly unfounded” under s.34E(2).</p>	<p>Definitions (Part 4A) 34A. In this Part, unless the context otherwise requires— ‘abusive court proceedings against public participation’ means defamation proceedings or part thereof that pursue unfounded claims and that are not brought to genuinely assert or exercise a right, have the effect of preventing, restricting or penalising public participation, frequently exploiting an imbalance of power between the parties, including but not limited to...</p> <p>Application to strike out claim and appeal 34E. Where a defendant in defamation proceedings relating to his or her engagement in public participation makes an application to the court, in accordance with law, to strike out the claim as being an abusive lawsuit against public participation...</p> <p><i>This is adapted from s.34A and 34E of the Irish Defamation (Amendment) Bill 2024.</i></p>

Onus on Litigant to Prove Case is not Unfounded	Not present	N/A	Add in a clause which requires the litigant to prove that their case is not unfounded.	<p>Where an application for declaration has been made before or during a trial of action and costs, a judge must not strike out a claim and appeal under section 34E if the claimant satisfies the judge that:</p> <ul style="list-style-type: none"> (a) The claim is likely to prevail at trial; and (b) The harm suffered or likely to be suffered by the claimant as a result of the defendant's expression is sufficiently serious that the public interest in permitting the proceeding to continue outweighs the public interest in dismissing the case before trial. <p><i>This is adapted from clause 2(2) of The UK Anti-SLAPP Coalition's Model Anti-SLAPP Law.</i></p>
Stay of proceedings	Not present	N/A	Add in a clause that requires the court to stay proceedings after a defendant makes an application to the court to strike out a claim to prevent legal fees accruing.	<p>Definitions (Part 4A) Stay of proceedings New 34F. (1) Upon an application made under section 34E by a defendant to a proceeding, no further step may be taken in the proceeding by any party until the application, including any appeal against the application, has been finally disposed of.</p> <p>(2) Unless a judge orders otherwise, the claimant is not permitted to amend his or her pleadings in the proceeding -</p> <ul style="list-style-type: none"> (a) In order to prevent an order under this Act dismissing the proceeding; or (b) If the proceeding is dismissed under the Act, in order to continue the proceeding. <p><i>This is adapted from clause 3 of The UK Anti-SLAPP Coalition's Model Anti-SLAPP Law.</i></p>