



# Law Reform (Contributory Negligence) Act 1945

## 1945 CHAPTER 28

### **1 Apportionment of liability in case of contributory negligence.**

- (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage :

Provided that—

- (a) this subsection shall not operate to defeat any defence arising under a contract;
  - (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.
- (2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.
- (3) Section six of the Law Reform (Married Women and Tortfeasors) Act, 1935 (which relates to proceedings against, and contribution between, joint and several tortfeasors), shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (1) of this section in respect of the damage suffered by any person.
- (4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under the Law Reform (Miscellaneous Provisions) Act, 1934, the damages recoverable would be reduced under subsection (1) of this section, any damages recoverable in an action brought for the benefit of the dependants of that person under the Fatal Accidents Acts, 1846 to 1908, shall be reduced to a proportionate extent.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where, in any case to which subsection (1) of this section applies, one of the persons at fault avoids liability, to any other such person or his personal representative by pleading the Limitation Act, 1939, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.
- (6) Where any case to which subsection (1) of this section applies is tried with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.
- (7) Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1932 (which empowers a court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person), shall have effect subject to the provisions of this section.