



Law Reform (Contributory Negligence) Act 1945

1945 CHAPTER 28

2 Provisions as to workmen and employers.

- (1) Where, within the time limited for the taking of proceedings under the Workmen's Compensation Acts, 1925 to 1943, an action is brought to recover damages independently of the said Acts in respect of an injury or disease giving rise to a claim for compensation under the said Acts, and it is determined in that action that—
- damages are recoverable independently of the said Acts subject to such reduction as is mentioned in subsection (1) of the foregoing section of this Act ; and
 - the employer would have been liable to pay compensation under the Workmen's Compensation Acts, 1925 to 1943 ;

subsection (2) of section twenty-nine of the Workmen's Compensation Act, 1925, (which enables the court, on the dismissal of an action to recover damages independently of the said Acts, to assess and award compensation under the said Acts) shall apply in all respects as if the action had been dismissed, and, if the claimant chooses to have compensation assessed and awarded in accordance with the said subsection (2), no damages shall be recoverable in the said action.

This subsection shall apply, with the necessary adaptations, in any case where compensation is recoverable under a scheme certified or made under the Workmen's Compensation Acts, 1925 to 1943, or under the Workmen's Compensation and Benefit (Byssinosis) Act, 1940, if the scheme applies section twenty-nine of the Workmen's Compensation Act, 1925, or contains any provision similar to that section.

- (2) Where a workman or his personal representative or dependant has recovered compensation under the Workmen's Compensation Acts, 1925 to 1943, or under any scheme certified under the Workmen's Compensation Act, 1925, in respect of an injury caused under circumstances which would give a right to recover reduced damages in respect thereof by virtue of section one of this Act from some person other than the employer (hereinafter referred to as " the third party "), any right conferred by section thirty of the Workmen's Compensation Act, 1925, on the person by whom the compensation was paid, or on any person called on to pay an indemnity under section

Status: This is the original version (as it was originally enacted).

six of that Act, to be indemnified by the third party shall be limited to a right to be indemnified in respect of such part only of the sum paid or payable by the said person as bears to the total sum so paid or payable the same proportion as the said reduced damages bear to the total damages which would have been recoverable if the workman had not been at fault.