Civil Liability (Contribution) Act 1978

1978 CHAPTER 47

An Act to make new provision for contribution between persons who are jointly or severally, or both jointly and severally, liable for the same damage and in certain other similar cases where two or more persons have paid or may be required to pay compensation for the same damage; and to amend the law relating to proceedings against persons jointly liable for the same debt or jointly or severally, or both jointly and severally, liable for the same damage. 

[C31st July 1978]

Modifications etc. (not altering text)

C1 Act modified by Water Act 1981 (c. 12, SIF 130), s. 6(5)
C2 Act modified (E.W.) (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), ss. 209(5), 223(2) (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)
Act modified (E.W.) (1.12.1991) by Water Resources Act 1991 (c. 57, SIF 130), ss. 208(5), 225(2) (with ss. 16(6), 179, 222(3), 224(1), Sch. 22 para. 1, Sch. 23 para. 6)
C3 Act modified (E.W.) (1.1.1996) by 1995 c. 30, s. 13(3) (with ss. 1(1), 26(1)); S.I. 1995/2963, art. 2
C4 Act modified (28.2.2000 for E.W. and 6.1.2010 for N.I.) by 1996 c. 31, s. 3(8) (with s. 20(2)); S.I. 2000/222, art. 3(a); S.I. 2009/2858, art. 3(a)
C5 Act modified (2.10.2000) by 1998 c. 42, s. 8(5)(b) (with ss. 7(8), 22(5)); S.I. 2000/1851, art. 2

Commencement Information

I1 Act wholly in force at 1. 1. 1979 see s. 10(2)

Proceedings for contribution

1 Entitlement to contribution.

(1) Subject to the following provisions of this section, any person liable in respect of any damage suffered by another person may recover contribution from any other person liable in respect of the same damage (whether jointly with him or otherwise).

(2) A person shall be entitled to recover contribution by virtue of subsection (1) above notwithstanding that he has ceased to be liable in respect of the damage in question since the time when the damage occurred, provided that he was so liable immediately
before he made or was ordered or agreed to make the payment in respect of which
the contribution is sought.

(3) A person shall be liable to make contribution by virtue of subsection (1) above
notwithstanding that he has ceased to be liable in respect of the damage in question
since the time when the damage occurred, unless he ceased to be liable by virtue of the
expiry of a period of limitation or prescription which extinguished the right on which
the claim against him in respect of the damage was based.

(4) A person who has made or agreed to make any payment in bona fide settlement or
compromise of any claim made against him in respect of any damage (including a
payment into court which has been accepted) shall be entitled to recover contribution
in accordance with this section without regard to whether or not he himself is or ever
was liable in respect of the damage, provided, however, that he would have been liable
assuming that the factual basis of the claim against him could be established.

(5) A judgment given in any action brought in any part of the United Kingdom by or on
behalf of the person who suffered the damage in question against any person from
whom contribution is sought under this section shall be conclusive in the proceedings
for contribution as to any issue determined by that judgment in favour of the person
from whom the contribution is sought.

(6) References in this section to a person's liability in respect of any damage are references
to any such liability which has been or could be established in an action brought against
him in England and Wales by or on behalf of the person who suffered the damage;
it is immaterial whether any issue arising in any such action was or would be
determined (in accordance with the rules of private international law) by reference to
the law of a country outside England and Wales.

2

Assessment of contribution.

(1) Subject to subsection (3) below, in any proceedings for contribution under section 1
above the amount of the contribution recoverable from any person shall be such as
may be found by the court to be just and equitable having regard to the extent of that
person's responsibility for the damage in question.

(2) Subject to subsection (3) below, the court shall have power in any such proceedings to
exempt any person from liability to make contribution, or to direct that the contribution
to be recovered from any person shall amount to a complete indemnity.

(3) Where the amount of the damages which have or might have been awarded in respect
of the damage in question in any action brought in England and Wales by or on behalf
of the person who suffered it against the person from whom the contribution is sought was or would have been subject to—

(a) any limit imposed by or under any enactment or by any agreement made before the damage occurred;

(b) any reduction by virtue of section 1 of the Law Reform (Contributory Negligence) Act 1945 or section 5 of the Fatal Accidents Act 1976; or

(c) any corresponding limit or reduction under the law of a country outside England and Wales;

the person from whom the contribution is sought shall not by virtue of any contribution awarded under section 1 above be required to pay in respect of the damage a greater amount than the amount of those damages as so limited or reduced.

**Proceedings for the same debt or damage**

3 **Proceedings against persons jointly liable for the same debt or damage.**

Judgment recovered against any person liable in respect of any debt or damage shall not be a bar to an action, or to the continuance of an action, against any other person who is (apart from any such bar) jointly liable with him in respect of the same debt or damage.

4 **Successive actions against persons liable (jointly or otherwise) for the same damage.**

If more than one action is brought in respect of any damage by or on behalf of the person by whom it was suffered against persons liable in respect of the damage (whether jointly or otherwise) the plaintiff shall not be entitled to costs in any of those actions, other than that in which judgment is first given, unless the court is of the opinion that there was reasonable ground for bringing the action.

**Supplemental**

5 **Application to the Crown.**

Without prejudice to section 4(1) of the Crown Proceedings Act 1947 (indemnity and contribution), this Act shall bind the Crown, but nothing in this Act shall be
construed as in any way affecting Her Majesty in Her private capacity (including in right of Her Duchy of Lancaster) or the Duchy of Cornwall.

### 6 Interpretation.

1. A person is liable in respect of any damage for the purposes of this Act if the person who suffered it (or anyone representing his estate or dependants) is entitled to recover compensation from him in respect of that damage (whatever the legal basis of his liability, whether tort, breach of contract, breach of trust or otherwise).

2. References in this Act to an action brought by or on behalf of the person who suffered any damage include references to an action brought for the benefit of his estate or dependants.

3. In this Act “dependants” has the same meaning as in the Fatal Accidents Act 1976.

4. In this Act, except in section 1(5) above, “action” means an action brought in England and Wales.

### 7 Savings.

1. Nothing in this Act shall affect any case where the debt in question became due or (as the case may be) the damage in question occurred before the date on which it comes into force.

2. A person shall not be entitled to recover contribution or liable to make contribution in accordance with section 1 above by reference to any liability based on breach of any obligation assumed by him before the date on which this Act comes into force.

3. The right to recover contribution in accordance with section 1 above supersedes any right, other than an express contractual right, to recover contribution (as distinct from indemnity) otherwise than under this Act in corresponding circumstances; but nothing in this Act shall affect—
   - (a) any express or implied contractual or other right to indemnity; or
   - (b) any express contractual provision regulating or excluding contribution;

which would be enforceable apart from this Act (or render enforceable any agreement for indemnity or contribution which would not be enforceable apart from this Act).

### 8 Application to Northern Ireland.

In the application of this Act to Northern Ireland—

(a) the reference in section 2(3)(b) to section 1 of the Law Reform (Contributory Negligence) Act 1945 or section 5 of the Fatal Accidents Act 1976 shall be construed as a reference to section 2 of the Law Reform
Civil Liability (Contribution) Act 1978 (c. 47)

Changes to legislation: Civil Liability (Contribution) Act 1978 is up to date with all changes known to be in force on or before 09 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(Miscellaneous Provisions) Act (Northern Ireland) 1948 or Article 7 of the Fatal Accidents (Northern Ireland) Order 1977;

(b) the reference in section 5 to section 4(1) of the Crown Proceedings Act 1947 shall be construed as a reference to section 4(1) of that Act as it applies in Northern Ireland;

(c) the reference in section 6(3) to the Fatal Accidents Act 1976 shall be construed as a reference to the Fatal Accidents (Northern Ireland) Order 1977;

(d) references to England and Wales shall be construed as references to Northern Ireland; and

(e) any reference to an enactment shall be construed as including a reference to an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly.

Marginal Citations

M5 1945 c. 28.
M6 1976 c. 30.
M7 1948 c. 23 (N.I.)
M8 S.I. 1977/1251 (N.I. 18)
M9 1947 c. 44.
M10 1976 c. 30.

9 Consequential amendments and repeals.

(1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out in that Schedule, being amendments consequential on the preceding provisions of this Act.

(2) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

Modifications etc. (not altering text)

C14 The text of S. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

10 Short title, commencement and extent.

(1) This Act may be cited as the Civil Liability (Contribution) Act 1978.

(2) This Act shall come into force on 1st January next following the date on which it is passed.

(3) This Act, with the exception of paragraph 1 of Schedule 1 thereto, does not extend to Scotland.
SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

The *M11* Law Reform (Contributory Negligence) Act 1945

**Marginal Citations**

M11 1945 c. 28.

**1** For section 5(b) of the Law Reform (Contributory Negligence) Act 1945 (application to Scotland) there shall be substituted—

“(b) section 3 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (contribution among joint wrongdoers) 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 section 1(1) of this Act in respect of the damage suffered by any person.”

**Modifications etc. (not altering text)**

C15 The text of Sch.1 paras.1,2,5,7 and Sch.2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The *M12* Public Utilities Street Works Act 1950

**Marginal Citations**

M12 1950 c. 39.

**F1**............................

**Textual Amendments**

F1 Sch. 1 para. 2 repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59), s. 168(2), Sch.9, S.I. 1992/2984, art. 2(2), Sch. 2

The *M13* Statute of Limitations (Northern Ireland) 1958

**Marginal Citations**

M13 1958 c. 10(N.I).

3&4............................
Textual Amendments

F2 Sch. 1 paras. 3, 4 repealed by S.I. 1989/1339 (N.I. 11), art. 76, Sch. 2 paras. 1, 3, 7, Sch. 4

The Carriage by Air Act 1961

Marginal Citations

M14 1961 c. 27

5

(1) In section 4(1) of the Carriage by Air Act 1961 (limitation of liability) paragraph (a) shall be omitted.

(2) In section 5(2) of that Act, for the word “tortfeasors” there shall be substituted the words “persons liable for any damage to which the Convention relates”.

Modifications etc. (not altering text)

C16 The text of Sch.1 paras.1,2,5,7 and Sch.2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

The Limitation Act 1963

Marginal Citations

M15 1963 c. 47

6

... Textual Amendments

F3 Sch. 1 para. 6 repealed by Limitation Act 1980 (c.58, SIF 79), s. 40(3), Sch. 4

The Carriage of Goods by Road Act 1965

Marginal Citations

M16 1965 c. 37

7

In section 5(1) of the Carriage of Goods by Road Act 1965 (exclusion, as respects carriers of the general laww with respect to contribution between persons liable for the same damage), for the words from “section 6(1)(c)” to “(Northern Ireland) 1937” there shall be substituted the words “section 1 of the Civil Liability (Contribution) Act 1978”. 
### Modifications etc. (not altering text)

**C17**  The text of Sch.1 paras.1,2,5,7 and Sch.2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### The Carriage by Railway Act 1972

#### Marginal Citations

**M17**  1972 c. 33.

#### Textual Amendments

**F4**  Sch. 1 para. 8 repealed by International Transport Conventions Act 1983 (c.14, SIF 102), s. 11(2), Sch. 3

### SCHEDULE 2

#### Repeals

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Short Title</th>
<th>Extent of Repeal</th>
</tr>
</thead>
</table>

### Changes to legislation:

Civil Liability (Contribution) Act 1978 is up to date with all changes known to be in force on or before 09 July 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes.
<table>
<thead>
<tr>
<th>Year</th>
<th>Act</th>
<th>Section</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948 c. 23 (N.I.)</td>
<td>The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.</td>
<td>Section 2(3).</td>
<td>In section 2(5) the words “or contributions”.</td>
</tr>
<tr>
<td>7 &amp; 8 Eliz. 2. c. 65.</td>
<td>The Fatal Accidents Act 1959.</td>
<td>Section 1(4).</td>
<td></td>
</tr>
<tr>
<td>1959 c. 18. (N.I.)</td>
<td>The Fatal Accidents Act (Northern Ireland) 1959.</td>
<td>Sections 1(4) and 3(1).</td>
<td></td>
</tr>
<tr>
<td>9 &amp; 10 Eliz. 2. c. 27.</td>
<td>The Carriage by Air Act 1961.</td>
<td>Section 4(1)(a).</td>
<td></td>
</tr>
<tr>
<td>10 &amp; 11 Eliz. 2. c. 43.</td>
<td>The Carriage by Air (Supplementary Provisions) Act 1962.</td>
<td>In section 3(1), the words from “paragraph” to “and in”.</td>
<td></td>
</tr>
</tbody>
</table>
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
– Act excluded by 2018 c. 18 s. 6(5)