

THE LAW REFORM (CONTRIBUTORY
NEGLECTENCE) ACT

Cap. 213.

[28th December, 1951.]

1. This Act may be cited as the Law Reform (Con- Short title.
tributory Negligence) Act.

2. In this Act—

Interpreta-
tion.

“court” means, in relation to any claim, the court or arbitrator by or before whom the claim falls to be determined;

“damage” includes personal injury;

“dependant” means any person for whose benefit an action could be brought under the Fatal Accidents Act;

“fault” means negligence, breach of statutory duty of other act or omission which gives rise to a liability in tort or would, apart from this Act, give rise to the defence of contributory negligence.

3.—(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:

Apportion-
ment of
liability in
case of con-
tributory
negligence.

Provided that—

(a) this subsection shall not operate to defeat any defence arising under a contract;

[The inclusion of this page is authorized by L.N. 480/1973]

(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 subsection (1) 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 3 of the Law Reform (Tort-Feasors) Act, (which relates to proceedings against, and contribution between, joint and several tort-feasors), 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) 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 such person had not died and an action were brought by him the damages recoverable would be reduced under subsection (1), any damages recoverable in an action brought for the benefit of the dependants of that person under the Fatal Accidents Act, shall be reduced to a proportionate extent.

(5) Where, in any case to which subsection (1) applies, one of the persons at fault avoids liability to any other such person by pleading the Limitation of Actions Act, 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 by virtue of the said subsection.

(6) Where any case to which subsection (1) 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 of the Carriage by Air Act, 1932 (United Kingdom) as adapted, modified and extended to this Island by the Carriage by Air (Colonies, Protectorates and Mandated Territories) Order, 1934 (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.

4.—(1) This Act shall not apply to any claim to which section 1 of the Maritime Conventions Act, 1911 (United Kingdom) applies and that Act shall have effect as if this Act had not been enacted.

(2) This Act shall not apply to any case where the acts or omissions giving rise to the claim occurred before the commencement of this Act.

22 & 23
Geo. 5
c. 36.
(U. K.)

Saving for
Maritime
Conventions
Act, 1911,
and past
cases.
1 & 2
Geo. 5
c. 57.
(U. K.)