

CHAPTER 194B

CIVIL LIABILITY (CONTRIBUTION)

ARRANGEMENT OF SECTIONS

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CHAPTER 194B

CIVIL LIABILITY (CONTRIBUTION)

An Act to make new provision respecting civil liability contribution. 1980-61.

[22nd January, 1980] Commence-
ment
S.I. 1981/
10.

1. This Act may be cited as the *Civil Liability (Contribution) Act*. Short title.

2. (1) In this Act,
“action” means an action brought in Barbados; Definitions
and Inter-
pretation.
“dependants” has the meaning assigned to it by the *Accident Compensation Act*. Cap. 203.

(2) 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.

(3) 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. (1) Subject to 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. Entitle-
ment to
contribu-
tion.

(2) A person is entitled to recover contribution by virtue of subsection (1) notwithstanding that he has ceased to be liable in respect of the damage in question since the time when the damage occurred, if 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 is liable to make contribution by virtue of subsection (1) 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, is entitled to recover contribution under 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 Barbados 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 Barbados by or on behalf of the person who suffered the damage; but 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 another country.

Assessment
of contri-
bution.

4. (1) Subject to subsection (3), in any proceedings for contribution under section 3 the amount of contribution recoverable from any person shall be such as may be found by a court of competent jurisdiction 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), in any proceedings for contribution under section 3 a court may exempt any person from liability to make contribution or 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 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 3 of the *Contributory Negligence Act* or any other enactment; or
- (c) any corresponding limit or reduction under the law of another country,

Cap. 195.

the person from whom the contribution is sought shall not by virtue of any contribution awarded under section 3 be required to pay in respect of the damage a greater amount than the amount of those damages as so limited or reduced.

5. Judgment recovered against any person liable in respect of any debt or damage is not 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 damage or debt.

Proceedings respecting joint liability for same debt or damage.

6. 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 is not 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 ground for bringing the action.

Successive actions against persons liable for same damage.

7. (1) The right to recover contribution in accordance with section 3 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 affects

Savings.

- (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.

(2) Nothing in this Act affects any case where the debt in question became due or, as the case may be, the damage in question occurred before 22nd January, 1980.

(3) A person is not entitled to recover contribution or liable to make contribution under section 3 by reference to any liability based on breach of any obligation assumed by him before 22nd January 1980.

(4) Nothing in this Act affects any criminal proceedings against any person in respect of any wrongful act.

Binding
the Crown
Cap. 197.

8. Without prejudice to section 6(1) of the *Crown Proceedings Act* (indemnity and contribution) this Act binds the Crown.

Amend-
ments
pro
tanto.

9. Where there is a conflict between this Act and any other enactment, including an enactment of the United Kingdom Parliament which is received in Barbados, then any such enactment is deemed to be amended *pro tanto* to give effect to this Act.