

CHAPTER 195

CONTRIBUTORY NEGLIGENCE

ARRANGEMENT OF SECTIONS

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THE LAWS OF BARBADOS

Printed by the Government Printing Department, Bay Street, St. Michael,
by the authority of the Government of Barbados



CHAPTER 195

CONTRIBUTORY NEGLIGENCE

An Act relating to contributory negligence and for purposes connected therewith.

1953-16.
1964-3.
1966-15.
1980-61.

[14th April, 1953] Commencement.

1. This Act may be cited as the *Contributory Negligence Act.*¹ Short title.

2. For the purposes of this Act, the expression "court" means, in relation to any claim, the court before which the claim falls to be determined;

Inter-
pretation.

"damage" includes loss of life and personal injury;
"dependant" has the meaning assigned to it by the *Accident Compensation Act:*

Cap. 194A.

"fault" means negligence, breach of statutory duty or 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. Subject to this section, 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 persons 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.

¹This Act was formerly entitled the Law Reform (Contributory Negligence) Act, 1953, 1953-16.

(2) This subsection shall not operate to defeat any defence arising under a contract.

(3) 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 subsection (1) shall not exceed the maximum limit so applicable.

Court to
find total
damages.

4. (1) Where damages are recoverable by any person by virtue of section 3, 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.

(2) Where any case to which section 3 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.

1980-61.

5. (Repealed by 1980—61)

Contri-
butory
negligence
in relation
to persons
killed.

Cap. 194A.

Person
pleading
limitation
not to
recover
damages.
1980-61.

6. Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons in circumstances in which, if such person had not died but had suffered other damage, the damages recoverable on a claim in respect of such other damage would be reduced under section 3, any damages recoverable in an action brought for the benefit of the dependants of such person under the *Accident Compensation Act* shall be reduced to a proportionate extent.

7. Where, in any case to which section 3 applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading any enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages from that other person or representative by virtue of section 3.

8. Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1961 of the United Kingdom Parliament¹ (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 sections 3 to 7. Carriage by air.

9. (1) This Act shall not apply to any claim to which section 1 of the Maritime Conventions Act, 1911, of the United Kingdom Parliament² applies and that Act shall have effect as if this Act had not been passed. Savings.

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

¹ 9 & 10 Eliz. 2., c. 27 (Barbados declared to be a contracting party by Order in Council No. 976 of 1967 of the United Kingdom). As this Act was only brought into force after the independence of Barbados, it appears that the Carriage by Air Act, 1932, 22 & 23 Geo. 5., c. 36 still applies. See also Carriage by Air (Supplementary Provisions) Act, 1962, 10 & 11 Eliz. 2., c. 43 of the United Kingdom Parliament.

² 1 & 2 Geo. 5. c. 57.

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Printed in England by Eyre and Spottiswoode Limited, 2 Serjeants' Inn, London EC4,
by authority of the Government of Barbados