



ST. CHRISTOPHER AND NEVIS

CHAPTER 5.08

LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986

This edition contains a consolidation of the following laws—

LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

Act 14 of 1957 ... in force 28th September 1957

Page
3

CHAPTER 5.08

LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

ARRANGEMENT OF SECTIONS

1. Short title
2. Apportionment of liabilities in case of contributory negligence
3. Saving for Maritime Conventions Act, 1911, and past cases
4. Abolition of doctrine of common employment

CHAPTER 5.08

LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

AN ACT TO MAKE PROVISION RESPECTING LIABILITY OF PARTIES AT FAULT IN TORT;
AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Law Reform (Miscellaneous Provisions) Act.

Apportionment of liabilities in case of contributory negligence.

2. (1) In this section—

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

“damage” includes loss of life and personal injury;

“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.

(2) Where any person suffers damage as the result partly of his or her own fault and partly of the fault of any other person, 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:

Provided that—

- (a) this subsection shall not operate to defeat any defences arising under a contract;
- (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.

(3) Where damages are recoverable by any person by virtue of the foregoing subsection subject to any 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.

(4) Where any person dies as the result partly of his or her own fault and partly of the fault of any other person or persons, and accordingly, if an action were brought for the benefit of the estate under section 2 of the Causes of Action (Survival) Act, Cap. 5.05 the damages recoverable would be reduced under subsection (2), any damages recoverable in an action brought for the benefit of the wife, husband, parent or child of the deceased person under the Fatal Accidents Act, Cap. 23.10 shall be reduced to a proportionate extent.

(5) Where, in any case to which subsection (2) applies, one of the persons at fault avoids liability to any other such person or his or her personal representative by pleading any enactment limiting the time within which proceedings may be taken, he or she shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(6) Where any case to which subsection (2) 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 to the Carriage by Air Act, 1932, (22 and 23 Geo. V c. 36) (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.

Saving for Maritime Conventions Act, 1911, and past cases.

3. Section 2 shall not apply—

- (a) to any claim to which section one of the Maritime Conventions Act, 1911 (1 and 2 Geo. V. c. 57), applies, and that Act shall have effect as if this Act had not been passed; or
- (b) to any case where the acts or omissions giving rise to the claim occurred before the passing of this Act.

Abolition of doctrine of common employment.

4. (1) The doctrine of common employment at common law is hereby abolished, and it shall not be a defence to an action against a defendant for damages in respect of personal injuries caused by the wrongful act, neglect, or default of a person employed by the defendant, that that person was at the time of the occurrence which caused the injuries in common employment with the plaintiff.

(2) Every provision in a contract of service or apprenticeship, or in an agreement collateral thereto (including a contract or agreement entered into before the commencement of this Act) is void in so far as it had the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the wrongful act, neglect, or default of any person in common employment with him or her.

(3) In this section, “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

(4) This section binds the Crown.
