

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER C100

CONTRIBUTORY NEGLIGENCE ACT

Showing the Law as at 15 December 2000

Published by Authority

Printed in
The Attorney General's Chambers
ANGUILLA

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CONTRIBUTORY NEGLIGENCE ACT

Apportionment of liabilities in case of contributory negligence

1. (1) In this section—

"court", in relation to any claim, means 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 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 but—

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

(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 subsection (2), 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 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 1 of the Causes of Action (Survival) Act, 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 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 personal representative by pleading any 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 or representative by virtue of the 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 Schedule 1 to the Carriage by Air Act, 1961 (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 (UK)

2. Section 1 shall not apply to any claim to which section 1 of the Maritime and Conventions Act, 1911, (1 & 2 Geo. V. c. 57) applies, and that Act shall have effect as if this Act had not been passed.

Citation

3. This Act may be cited as the Contributory Negligence Act, Revised Statutes of Anguilla, Chapter C100.

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