Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 [F1]

1948 CHAPTER 23

An Act to abolish the defence of common employment; to amend the law relating to contributory negligence and the measure of damages for personal injury or death; and for purposes connected with the matters aforesaid. [23rd December 1948]

Annotations:

F1 1971 c.59

Modifications etc. (not altering text)

C1 Act applied by 1995 (c. 21), s. 156A (as inserted (15.7.2006 for certain purposes, otherwise on the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom) by Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2)-(4), **9**)

C2 Act applied by 1995 c. 21, s. 156A (as inserted (21.11.2008 being the day on which the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 comes into force in respect of the United Kingdom) by The Merchant Shipping (Oil Pollution) (Bunkers Convention) Regulations 2006 (S.I. 2006/1244), regs. 1(2), **9** (with reg. 1(5)))

1 Common employment not to be a defence.

(1) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was at the time the injuries were caused in common employment with the person injured.

Subs.(2) rep. by SLR (NI) 1952

(3) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, (including a contract or agreement entered into before the passing of this Act) shall be void in so far as it would have 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 negligence of persons in common employment with him.

Changes to legislation: *There are currently no known outstanding effects for the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948. (See end of Document for details)*

2 Apportionment of liability in tort where more than one person is at fault.

F2(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:

Provided that—
(a)

this sub-section shall not operate to defeat any defence 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 sub-section shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of the preceding sub-section 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.

Subs.(3) rep. by 1978 c.47; subs.(4) rep. by 1977 NI 18

(5) Where, in any case to which sub-section (1) of this section applies, one of the persons at fault or his personal representative 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…F3 from that other person or representative by virtue of the said sub-section.

(6) Where any case to which sub-section (1) of this section 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.

Subs.(7) rep. by 1961 c.27

Annotations:
F2 1947 c.44
F3 1978 c.47

Modifications etc. (not altering text)
C3 S. 2 applied (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **298(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

3 Measure of damages, etc.

Subs. (1), (1A) rep. by 1997 NI 12

F4(2) In determining the value of the said rights there shall be disregarded any increase of an industrial disablement pension in respect of the need of constant attendance.

Subs. (3) rep. by 1997 NI 12

(4) On a claim for damages for personal injuries (including any such claim arising out of a contract),…F5, there shall be disregarded, in determining the reasonableness of any expenses, the possibility of avoiding those expenses or part of them by taking