

UNEDITED

The Contributory Negligence Act

being

Chapter 83 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

1	Short title
2	Apportionment of damage or loss
3	Degree of fault
4	Questions of fact
5	Restriction on submissions to jury
6	Judge without a jury
7	Adding party defendant
8	Contribution where plaintiff is a passenger
9	Contribution where plaintiff is spouse of negligent person
10	Apportionment of liability for costs
11	Application to the Crown
12	Construction of Act

CHAPTER 83

An Act to make Uniform the Law respecting Liability in Actions for Damages for Negligence where more than one Party is at Fault

Short title

1 This Act may be cited as *The Contributory Negligence Act*.

R.S.S. 1953, c.83, s.1.

Apportionment of damage or loss

2 Where by the fault of two or more persons damage or loss is caused to one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each person was at fault:

Provided that:

(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally; and

(b) nothing in this section shall operate so as to render any person liable for any damage or loss to which his fault has not contributed.

1911, c.23, s.2; R.S.S. 1953, c.83, s.83.

Degree of fault

3 Where damage or loss has been caused by the fault of two or more persons, the court shall determine the degree in which each was at fault, and where two or more persons are found at fault they shall be jointly and severally liable to the person suffering damage or loss, but as between themselves, in the absence of any contract express or implied, they shall be liable to make contribution to and indemnify each other in the degree in which they are respectively found to have been at fault.

1944, c.23, s.3; R.S.S. 1953, c.83, s.3.

Questions of fact

4 In any action the amount of damage or loss, the fault, if any, and the degrees of fault shall be questions of fact.

1944, c.23, s.4; R.S.S. 1953, c.83, s.4.

Restriction on submissions to jury

5 Where the trial is before a judge with a jury the judge shall not submit to the jury any question as to whether, notwithstanding the fault of one party, the other could have avoided the consequences thereof unless in his opinion there is evidence upon which the jury could reasonably find that the act or omission of the latter was clearly subsequent to and severable from the act or omission of the former so as not to be substantially contemporaneous with it.

1944, c.23, s.5; R.S.S. 1953, c.83, s.5.

Judge without a jury

6 Where the trial is before a judge without a jury the judge shall not take into consideration any question as to whether, notwithstanding the fault of one party, the other could have avoided the consequences thereof unless he is satisfied by the evidence that the act or omission of the latter was clearly subsequent to and severable from the act or omission of the former so as not to be substantially contemporaneous therewith.

1944, c.23, s.6; R.S.S. 1953, c.83, s.6.

Adding party defendant

7 When it appears that a person not a party to an action is or may be wholly or partly responsible for the damages claimed, he may be added as a party defendant or may be made a third party to the action, upon such terms as are deemed just.

1944, c.23, s.7; R.S.S. 1953, c.83, s.7.

Contribution where plaintiff is a passenger

8 Where no cause of action exists against the owner or driver of a motor vehicle by reason of subsection (2) of section 151 of *The Vehicles Act*, no damages or contribution or indemnity shall be recoverable from any person for the portion of the damage or loss caused by the negligence of such owner or driver and the portion of the damage or loss so caused by the negligence of such owner or driver shall be determined although such owner or driver is not a party to the action.

1944, c.23, s.8; R.S.S. 1953, c.83, s.8.

Contribution where plaintiff is spouse of negligent person

9 In any action founded upon negligence and brought for damage or loss resulting from bodily injury to or the death of any married person, where one of the persons found to be negligent is the spouse of such married person, no damages, contribution or indemnity shall be recoverable for the portion of damage or loss caused by the negligence of such spouse, and the portion of the loss or damage so caused by the negligence of the spouse shall be determined although the spouse is not a party to the action.

1944, c.23, s.9; R.S.S. 1953, c.83, s.9.

Apportionment of liability for costs

10 Unless the judge otherwise directs, the liability for costs of the parties to every action shall be in the same proportion as their respective liability to make good the damage or loss, and where as between two persons, one is entitled to a judgment for an excess of damage or loss and the other to a judgment for an excess of costs there shall be a set-off of the respective amounts and judgment shall be given accordingly.

1949, c.32, s.1; R.S.S. 1953, c.83, s.10.

Application to the Crown

11 This Act applies to actions by and against the Crown, and Her Majesty is bound thereby and has the benefit thereof.

1952, c.39, s.1; R.S.S. 1953, c.83, s.11.

Construction of Act

12 This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the provinces that enact it.

1944, c.23, s.10; R.S.S. 1953, c.83, s.12.

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