

**CONSOLIDATION OF
CONTRIBUTORY NEGLIGENCE ACT
R.S.N.W.T. 1988,c.C-18**

(Current to: September 9, 2012)

AS AMENDED BY:

S.Nu. 2010,c.4,s.11

s.11 in force March 23, 2010

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A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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CONTRIBUTORY NEGLIGENCE ACT

Definition of "judge"

- 1.** In this Act, "judge" means a judge of the Nunavut Court of Justice.
S.Nu. 2010,c.4,s.11.

Apportionment of damage or loss

- 2.** (1) Subject to subsections (2) and (3), 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 is in proportion to the degree in which each person was at fault.

Equal apportionment in certain cases

- (2)** Where, 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.

Where no fault

- (3)** Nothing in this section renders a person liable for damage or loss to which his or her fault has not contributed.

Degree of fault

- 3.** (1) Where damage or loss has been caused by the fault of two or more persons, a judge or a jury, as the case may be, shall determine the degree in which each was at fault.

Liability

- (2)** Where two or more persons are found at fault under subsection (1), they are 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 are liable to make contribution to and to indemnify each other in the degree in which they are respectively found to have been at fault.

Apportionment of costs

- 4.** The liability for costs of the parties in an action under this Act is in the same proportion as their respective liability to make good the damage or loss, unless a judge otherwise directs.

Questions of fact

- 5.** In an action, the following are questions of fact:
 - (a)** the amount of damage or loss;
 - (b)** the fault, if any;
 - (c)** the degrees of fault.

Restriction on questions

- 6.** At the trial of an action, a judge shall not take into consideration or, where there is a jury, submit to the jury any question as to whether, notwithstanding the fault of one party, the other party could have avoided the consequences of that fault, unless in the

opinion of the judge there is 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 with it.

Adding party defendant

7. Where it appears that a person who is not a party to an action is or may be wholly or partly responsible for the damages claimed, that person may be added as a party defendant or may be made a third party to the action on the terms that a judge considers just.

Contribution where plaintiff is spouse of negligent person

8. (1) In an action founded on negligence and brought for damage or loss resulting from bodily injury to or the death of a married person, where one of the persons found to be negligent is the spouse of the married person,

- (a) no damages or contribution or indemnity are recoverable for the portion of damage or loss caused by the negligence of the spouse; and
- (b) the portion of the loss or damage caused by the negligence of the spouse shall be determined although the spouse is not a party to the action.

Limitation to interspousal immunity

(2) Subsection (1) does not apply where the cause of action arises on or after April 17, 1985.