



Jersey

LAW REFORM (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 1960

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LAW REFORM (MISCELLANEOUS PROVISIONS) (JERSEY) LAW 1960

A **LAW** to extend the period of prescription of actions founded on tort, to amend the law relating to proceedings against, and contributions between, tortfeasors, and to amend the law relating to contributory negligence

Commencement [[see endnotes](#)]

1 Interpretation¹

In this Law –

“action” means any proceedings in a court of law;

“dependants” means the persons for whose benefit actions may be brought under the [Fatal Accidents \(Jersey\) Law 1962](#);

“tort” means a “*tort personnel*” or a “*tort matériel*”;

“tortfeasor” means a person who commits a tort.

2 Extension of period of prescription of actions founded on tort

- (1) The period within which actions founded on tort may be brought is extended to 3 years from the date on which the cause of action accrued.
- (2) The provisions of this Article shall be without prejudice to any rule of law allowing for the extension of such a period as aforesaid.
- (3) Nothing in this Article shall revive any right of action which was barred by prescription before the commencement of this Law.
- (4) This Article shall not apply to any action for which a period of prescription is provided by any other enactment.

3 Proceedings against, and contribution between, joint and several tortfeasors

- (1) Where damage is suffered by any person as a result of a tort (whether a crime or not) –
 - (a) judgment recovered against any tortfeasor liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tortfeasor in respect of the same damage;
 - (b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate, or of the dependants of that person, against tortfeasors liable in respect of the damage (whether as joint tortfeasors or otherwise) the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of opinion that there was reasonable ground for bringing the action;
 - (c) any tortfeasor liable in respect of that damage may recover contribution from any other tortfeasor who is, or would if sued have been, liable in respect of the same damage, whether the joint tortfeasor or otherwise, so however that no person shall be entitled to recover contribution under this Article from any person entitled to be indemnified by the person in respect of the liability in respect of which the contribution is sought.²
- (2) In any proceedings for contribution under this Article the amount of the contribution recoverable from any person shall be such as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage; and the court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity.
- (3) For the purposes of this Article the reference in this Article to the "judgment first given" shall, in a case where that judgment is reversed on appeal or rehearing, be construed as a reference to the judgment first given which is not so reversed and, in a case where a judgment is varied on appeal or rehearing, be construed as a reference to that judgment as so varied.³
- (4) Nothing in this Article shall –
 - (a) apply with respect to any tort committed before the commencement of this Law;
 - (b) affect any criminal proceedings against any person in respect of any wrongful act; or
 - (c) render enforceable any agreement for indemnity which would not have been enforceable if this Article had not been passed.

4 Apportionment of liability in case of contributory negligence

- (1) Where any person suffers damage as the result partly of the person's 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 paragraph 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 paragraph shall not exceed the maximum limit so applicable.
- (2) Where damages are recoverable by any person by virtue of paragraph (1) 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.
- (3) Article 3 of this Law shall apply in any case where 2 or more persons are liable or would, if they had all been sued, be liable by virtue of paragraph (1) in respect of the damage suffered by any person.
- (4) Where any person dies as a result partly of the person's 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 the [Customary Law Amendment \(Jersey\) Law 1948](#), the damages recoverable would be reduced under paragraph (1) of this Article, any damages recoverable in an action brought for the benefit of the dependants of that person under the [Fatal Accidents \(Jersey\) Law 1962](#) shall be reduced to a proportionate extent.⁴
- (5) Where, in any case to which paragraph (1) applies, one of the persons at fault avoids liability to any other such person or the person's personal representatives by pleading prescription, the person shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said paragraph.
- (6) Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1932 of the United Kingdom (which was extended to Jersey by the Carriage by Air (Jersey) Order 1935) shall have effect subject to the provisions of this Article.
- (7) This Article shall not apply to any claim to which section 1 of the Maritime Conventions Act 1911 of the United Kingdom applies.
- (8) This Article shall not apply to any case where the acts or omissions giving rise to the claim occurred before the commencement of this Law.
- (9) In this Article –
- “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 wrongful act (*faute*), negligence (*négligence*), lack of skill (*impéritie*), breach of statutory duty or other act or omission which gives rise to liability in damages or would, apart from this Article, give rise to the defence of contributory negligence.⁵

5 Citation

This Law may be cited as the Law Reform (Miscellaneous Provisions) (Jersey) Law 1960.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Law Reform (Miscellaneous Provisions) (Jersey) Law 1960	L.5/1960	4 June 1960
Fatal Accidents (Jersey) Law 1962	L.20/1962	22 September 1962

Table of Renumbered Provisions

Original	Current
3	repealed by L.20/1962
4	spent, omitted from this revised edition
5	3
5(3)(a)	deleted by L.20/1962
6	4
7	5

Table of Endnote References

¹ Article 1	<i>amended by L.20/1962</i>
² Article 3(1)	<i>amended by L.20/1962</i>
³ Article 3(3)	<i>amended by L.20/1962</i>
⁴ Article 4(4)	<i>amended by L.20/1962</i>
⁵ Article 4(9)	<i>amended by L.20/1962</i>