



BILLE NA dTORTOIRI, 1950.
TORTFEASORS BILL, 1950.

Mar a ritheadh ag dhá Thigh an Oireachtais.
As passed by both Houses of the Oireachtas.

ARRANGEMENT OF SECTIONS.

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BILLE NA dTORTOIRI, 1950.
TORTFEASORS BILL, 1950.

BILL

entitled

AN ACT TO AMEND THE LAW RELATING TO PROCEEDINGS AGAINST, AND CONTRIBUTION BETWEEN, TORTFEASORS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Definitions.

1.—In this Act—

the word “injury” includes every kind of loss or damage, whether in respect of person or of property; 10

the word “tort” includes a tort which is a crime.

Action against tortfeasor after recovery of judgment against another tortfeasor.

2.—The recovery by a person (in this section referred to as the injured person) of judgment against a tortfeasor (in this section referred to as the original defendant) for damages in respect of an injury occasioned by a tort shall not be a bar to an action by the injured person for damages in respect of that injury against any other person, whether that other person is or is not alleged to be liable as joint tortfeasor with the original defendant. 15

Provisions as to damages and costs where two or more tortfeasors are sued separately.

3.—Where— 25

(a) injury is suffered by a person (in this section referred to as the injured person) as the result of a tort, and

(b) separate actions for damages in respect of such injury are brought by the injured person against two or more persons, and 25

(c) judgment for damages is obtained by the injured person in two or more of such actions (in this section referred to as the successful actions),

then, whether the tortfeasors are or are not joint tortfeasors, the following provisions shall have effect— 30

(i) in determining whether an action, in which there has been an appeal (including an appeal by way of motion for a new trial) or two or more trials, is or is not a successful action within the meaning of this section, the final result of the action shall alone be considered; 35

(ii) the injured person shall not be entitled to recover, in respect of the damages awarded to him in the successful actions, a sum exceeding the amount of the

damages awarded in that one of the successful actions (in this section referred to as the first successful action) in which judgment (whether for the plaintiff or the defendant) is first given in a court of first instance;

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(iii) subject to *paragraph (iv)* of this section, the injured person shall not be entitled to costs in any of the successful actions other than the first successful action;

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(iv) the Court may award to the injured person costs in a successful action (other than the first successful action) where the Court is of opinion that there was reasonable ground for bringing such successful action as a separate action.

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4.—(1) Where an action for damages in respect of an injury occasioned by a tort is brought against two or more defendants in any Court, then, on the application of any of the defendants, the jury (or, in case the action is tried without a jury, the judge) may, subject to *subsection (2)*, apportion the damages, if any, amongst

Apportionment
of damages
amongst
tortfeasors,
inter se.

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some or all of the defendants in such proportions as the jury (or the judge, as the case may be) may think fit, having regard to all the circumstances and, in particular, to the extent to which the several defendants were respectively responsible for the injury, and may so apportion the damages as to confer an indemnity on any

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one or more of the said defendants.

(2) No apportionment shall be made in any case under *subsection (1)* unless the judge is satisfied that all persons liable as tortfeasors in respect of the injury are before the Court.

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(3) Any tortfeasor (in this subsection referred to as the claimant) who has paid (whether to the judgment creditor only or to the judgment creditor and to any other tortfeasors) an amount in excess of that apportioned to him shall be entitled to recover, as a simple contract debt, from any other tortfeasor (in this subsection referred to as the contributor) who is not entitled to be indemnified

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(whether by the claimant or by reason of the apportionment order) or who has not already paid as aforesaid an amount equal to the amount apportioned to him, a sum equal to whichever of the following is the lesser—

(a) the amount of the excess, or

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(b) the amount by which the amount which the contributor has so paid falls short of the amount apportioned to him.

(4) Nothing in this section shall affect the liability of each of the tortfeasors to the judgment creditor for the entire damages.

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(5) The references in this section to damages shall be construed as including references to costs.

5.—(1) Where—

Contribution
between
tortfeasors.

(a) two or more persons are liable as tortfeasors for an injury occasioned by a tort, and

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(b) judgment for damages in respect of the injury has been recovered against any one or more of those tortfeasors, and

- (c) any tortfeasor (in this section referred to as the claimant) has paid any sum on foot of any such judgment, and
- (d) an apportionment order under *section 4* of this Act has not been made,

the following provisions shall have effect—

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- (i) the claimant shall be entitled to recover from any other tortfeasor (in this section referred to as the contributor) contribution in respect of the sum so paid whether the contributor has or has not been sued in respect of the said injury; 10
- (ii) the amount of contribution so recoverable shall be such amount as is reasonable having regard to all the circumstances and, in particular, to the extent to which the claimant and the contributor and the other tortfeasors (if there be any such) were respectively responsible for the injury and to the amount (if any) which the contributor has already paid to the injured person on foot of a judgment for damages in respect of the injury and to the amount (if any) which he has already been adjudged liable under this section to contribute to any other tortfeasor in respect of the injury; 20
- (iii) the amount of the contribution may, in a proper case, be such as to afford to the claimant a complete indemnity against liability for the injury; 25
- (iv) no contribution shall be recoverable under this section by the claimant from the contributor where the contributor is entitled to be indemnified by the claimant in respect of liability for the injury.

(2) The references in *subsection (1)* of this section to damages shall be construed as including references to costs. 30

Savings.

6.—Nothing in this Act shall—

- (a) apply to any tort committed before the commencement of this Act, or
- (b) affect any criminal proceedings against any person in respect of any wrongful act, or 35
- (c) render enforceable any agreement for indemnity which would not have been enforceable if this Act had not been passed.

Short title and commencement.

7.—(1) This Act may be cited as the Tortfeasors Act, 1951. 40

(2) This Act shall come into operation on the *1st day of April, 1951.*

BILLE

dá ngairmtear

Acht do leasú an dlí a bhaineas le himeachta i geoinne tortóirí, agus le ranníocaíocht eatarthu.

BILL

entitled

An Act to amend the law relating to proceedings against, and contribution between, tortfeasors.

*Rite ag dhá Thigh an Oireachtais,
15ú Feabhra, 1951.*

*Passed by both Houses of the Oireachtas,
15th February, 1951.*

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ARNA FHOILSIÚ AG OIFIG AN tSOLATHAIR.

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