

1980

## c 315 Negligence Act

Ontario

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CHAPTER 315

Negligence Act

1. In this Act,

Interpretation

- (a) "action" includes a counterclaim;
- (b) "defendant" includes a plaintiff against whom a counterclaim is brought;
- (c) "plaintiff" includes a defendant who counterclaims.  
R.S.O. 1970, c. 296, s. 1.

2. Where damages have been caused or contributed to by the fault or neglect of two or more persons, the court shall determine the degree in which each of such persons is at fault or negligent, and, where two or more persons are found at fault or negligent, they are jointly and severally liable to the person suffering loss or damage for such fault or negligence, but as between themselves, in the absence of any contract express or implied, each is liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent. R.S.O. 1970, c. 296, s. 2 (1); 1977, c. 59, s. 1 (1).

Extent of liability, remedy over

3. A tortfeasor may recover contribution or indemnity from any other tortfeasor who is, or would if sued have been, liable in respect of the damage to any person suffering damage as a result of a tort by settling with the person suffering such damage, and thereafter commencing or continuing action against such other tortfeasor, in which event the tortfeasor settling the damage shall satisfy the court that the amount of the settlement was reasonable, and in the event that the court finds the amount of the settlement was excessive it may fix the amount at which the claim should have been settled. R.S.O. 1970, c. 296, s. 3.

Recovery as between tortfeasors

4. In any action for damages that is founded upon the fault or negligence of the defendant if fault or negligence is found on the part of the plaintiff that contributed to the damages, the court shall apportion the damages in proportion to the degree of fault or negligence found against the parties respectively. R.S.O. 1970, c. 296, s. 4.

Plaintiff guilty of contributory negligence

5. If it is not practicable to determine the respective degree of fault or negligence as between any parties to an

Where parties to be deemed equally at fault

action, such parties shall be deemed to be equally at fault or negligent. R.S.O. 1970, c. 296, s. 5.

Adding parties

**6.** Wherever it appears that a person not already a party to an action is or may be wholly or partly responsible for the damages claimed, such person may be added as a party defendant to the action upon such terms as are considered just or may be made a third party to the action in the manner prescribed by the rules of practice for adding third parties. R.S.O. 1970, c. 296, s. 6.

Jury to determine degrees of negligence of parties

**7.** In any action tried with a jury, the degree of fault or negligence of the respective parties is a question of fact for the jury. R.S.O. 1970, c. 296, s. 7.

When plaintiff may be liable for costs

**8.** Where the damages are occasioned by the fault or negligence of more than one party, the court has power to direct that the plaintiff shall bear some portion of the costs if the circumstances render this just. R.S.O. 1970, c. 296, s. 8.

Limitation of actions

**9.** Where an action is commenced against a tortfeasor or where a tortfeasor settles with a person who has suffered damage as a result of a tort, within the period of limitation prescribed for the commencement of actions by any relevant statute, no proceedings for contribution or indemnity against another tortfeasor are defeated by the operation of any statute limiting the time for the commencement of action against such other tortfeasor provided,

- (a) such proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
- (b) there has been compliance with any statute requiring notice of claim against such tortfeasor. R.S.O. 1970, c. 296, s. 9.