

**Uniform Law  
Conference of Canada**

***Uniform Contributory  
Fault Act***

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# Uniform Contributory Fault Act

## Interpretation

1 In this Act,

“**concurrent wrongdoers**” means

- (a) two or more persons whose wrongful acts contribute to the same damage suffered by another, and any other person liable for the wrongful act of any of those persons; or
- (b) a person whose wrongful act causes damage suffered by another and a person liable for the wrongful act;

“**damage**” includes economic loss;

“**fault**” means an act or omission that constitutes

- (a) a tort,
- (b) a breach of a statutory duty that creates a liability for damages,
- (c) a breach of duty of care arising from a contract that creates a liability for damages, or
- (d) a failure of a person to take reasonable care of his own person, property or economic interest,

whether or not it is intentional.

“**release**” includes a settlement or any other agreement limiting the liability of a person for damages, either in whole or in part,

“**wrongful act**” means an act or omission that constitutes

- (a) a tort,
- (b) a breach of contract or statutory duty that creates a liability for damages, or
- (c) a failure of a person to take reasonable care of his own person, property or economic interest,

whether or not it is intentional;

## General

### Act binds Crown

2 Her Majesty is bound by this Act.

### Last clear chance

3 This Act applies where damage is caused or contributed to by the act or omission of a person notwithstanding that another person had the opportunity of avoiding the consequences of that act or omission and failed to do so.

*Contributory Fault***Questions of fact**

4 In every action,

- (a) the fault or the wrongful act, if any;
- (b) the degree to which the fault or wrongful act of a person contributed to damage; and
- (c) the amount of damages,

are questions for the trier of fact.

**Contributory Fault****Reduction of liability**

5(1) Where the fault of two or more persons contributes to damage suffered by one or more of them, the liability for damages of a person whose fault contributed to the damage is reduced by an amount of the damages proportionate to the degree to which the fault of the person suffering the damage contributed to the damage.

**Claim by 3rd person**

(2) Where a person, other than a person referred to in subsection (1), makes a claim arising from the damage suffered by a person referred to in subsection (1), the liability for damages of a person whose fault contributed to the damage is reduced by an amount of the damages proportionate to the degree to which the fault of the person who suffered the damage from which the claim arose contributed to the damage.

**Equal contribution**

(3) If the degrees to which the fault of persons contributed to damage cannot be determined in relation to each other, those persons shall be deemed to have contributed equally in relation to each other.

**Concurrent Wrongdoers****Liability joint and several**

6 The liability of concurrent wrongdoers for damages is joint and several.

**Contribution between concurrent wrongdoers**

7 Subject to sections 8 to 14, a concurrent wrongdoer is entitled to contribution from the other concurrent wrongdoers.

**Amount**

8(1) The amount of contribution to which a concurrent wrongdoer is entitled from another concurrent wrongdoer is that amount of the total liability for damages of all concurrent wrongdoers that is proportionate to the degree to which the wrongful act of the other concurrent wrongdoer contributed to the damage.

*Contributory Fault***Equal contribution**

(2) If the degrees to which the wrongful acts of persons contributed to damage cannot be determined in relation to each other, those persons shall be deemed to have contributed equally in relation to each other.

**Apportionment of uncollectible contribution**

9 Where the court is satisfied that the contribution of a concurrent wrongdoer cannot be collected, the court may, on or after giving judgment for contribution, make an order that it considers necessary to apportion the contribution that cannot be collected among the other concurrent wrongdoers, proportionate to the degrees to which their wrongful acts contributed to the damage.

**Indemnity**

10 No person is entitled to contribution under this Act from a person who is entitled to be indemnified by him for the damages for which the contribution is sought.

**Reduction of liability when statutory exceptions**

11 Where a concurrent wrongdoer is exempt from liability for damages under the (*Workers' Compensation Act*), the liability for damages of the concurrent wrongdoers who are not exempt is reduced by an amount of the damages proportionate to the degree to which the wrongful acts of the concurrent wrongdoers who are exempt contributed to the damage, and there shall be no contribution between those concurrent wrongdoers who are exempt and those who are not exempt.

(NOTE: Any other statute that exempts a concurrent wrongdoer from liability for damages can also be inserted.)

12(1) This section applies where a person suffering damage enters into a release with a concurrent wrongdoer, whether before or after the damage is suffered.

**Reduction of liability when partial release**

(2) Where the person suffering the damage does not release all concurrent wrongdoers, the liability for damages of those concurrent wrongdoers who are not released is reduced by an amount of the damages proportionate to the degree to which the wrongful acts of the concurrent wrongdoers who are released contributed to the damage, and there shall be no contribution between those concurrent wrongdoers who are released and those who are not released.

**Contribution when full release**

(3) Where all concurrent wrongdoers are released, a person who gives consideration for the release, whether he is a concurrent wrongdoer or not, is entitled to contribution in accordance with this Act from any other concurrent wrongdoer based on the lesser of

- (a) the value of the consideration actually given for the release; and
- (b) the value of the consideration that in all the circumstances it would have been reasonable to give for the release.

*Contributory Fault***Effect of holding of no liability**

13 In proceedings against a person for contribution under this Act, the fact that the person has been held not liable for damages in an action brought by or on behalf of the person who suffered the damage is conclusive proof in favour of the person from whom contribution is sought as to any issue that has been determined on its merit in the action.

**Execution between concurrent wrongdoers**

14 Unless the person suffering the damage has been fully compensated or the court otherwise orders, a concurrent wrongdoer shall not issue execution on a judgment for contribution from another concurrent wrongdoer until

- (a) he satisfies that amount of the total damages that is proportionate to the degree to which his wrongful act contributed to the damage; and
- (b) the court makes provision for the payment into court of the proceeds of the execution to the credit of those persons that the court may order.

**Releases and judgments**

15 An action against one or more concurrent wrongdoers is not barred by

- (a) a release of any other concurrent wrongdoer; or
- (b) a judgment against any other concurrent wrongdoer,

and may be continued notwithstanding the release or judgment.

**Previous judgment binding in second action**

16(1) Where a judgment determines the total liability for damages of concurrent wrongdoers in an action against one or more of them, the person suffering the damage is not entitled to have the total liability determined in a higher amount by a judgment in the same or any other action against any other concurrent wrongdoer.

**Costs**

(2) Except in an action first taken against a concurrent wrongdoer, the persons suffering damage is not entitled to costs in an action taken against any other concurrent wrongdoer unless the court is of the opinion that there were reasonable grounds for bringing more than one action.