

NORTHERN TERRITORY OF AUSTRALIA  
LAW REFORM (MISCELLANEOUS PROVISIONS)  
AMENDMENT ACT 2001

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No. 12 of 2001

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# NORTHERN TERRITORY OF AUSTRALIA

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No. 12 of 2001

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## AN ACT

to amend the *Law Reform (Miscellaneous Provisions) Act*

[Assented to 28 June 2001]  
[Second reading 22 February 2001]

**The Legislative Assembly of the Northern Territory enacts as follows:**

**1. Short title**

This Act may be cited as the *Law Reform (Miscellaneous Provisions) Amendment Act 2001*.

**2. Commencement**

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

**3. Principal Act**

The *Law Reform (Miscellaneous Provisions) Act* is in this Act referred to as the Principal Act.

**4. Interpretation**

Section 15 of the Principal Act is amended —

- (a) by omitting from subsection (1) the definition of "fault" and substituting the following:

" 'wrong' means an act or omission that —

- (a) gives rise to a liability in the tort of negligence;
  - (b) amounts to a breach of a contractual duty of care that is concurrent with a duty of care in tort; or
  - (c) amounts to a breach of statutory duty."; and
- (b) by omitting from subsection (2) "fault" (twice occurring) and substituting "wrong".

#### **5. Apportionment of liability**

Section 16 of the Principal Act is amended –

- (a) by omitting subsections (1) and (2) and substituting the following:

"(1) If a person suffers damage as the result partly of the person's failure to take reasonable care and partly of the wrong of another person or other persons –

- (a) a claim in respect of the damage is not defeated by reason of the contributory negligence of the person suffering the damage; and
- (b) the damages recoverable in respect of the wrong are to be reduced to the extent the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage.

"(2) Subsection (1) does not operate to defeat any defence arising under a contract.

"(2A) If a contract or enactment providing for the limitation of liability is applicable to a claim in respect of damage referred to in subsection (1), the amount of damages recoverable by the claimant is not to exceed the maximum limit applicable under the contract or enactment."; and

- (b) by omitting from subsection (3) "if the claimant had not been at fault" and substituting "but for the claimant's share in the responsibility for the damage".

#### **6. Repeal and substitution**

Section 21 of the Principal Act is repealed and the following is substituted:

##### **"21. Application of section 16**

"Section 16 does not apply to –

- (a) a claim to which section 259 of the *Navigation Act 1912* of the Commonwealth applies; and

*Law Reform (Miscellaneous Provisions) Amendment Act 2001*

- (b) a case where the wrong giving rise to a claim occurred before 28 June 1956 (which is the date of the commencement of the *Law Reform (Miscellaneous Provisions) Ordinance 1956*).

**"21A. Transitional: application of section 16 on commencement of *Law Reform (Miscellaneous Provisions) Amendment Act 2001***

"(1) This section applies subject to section 21.

"(2) Subject to subsection (3), section 16 as in force on and after the commencement of the *Law Reform (Miscellaneous Provisions) Amendment Act 2001* applies to a wrong committed before that commencement as if that Act were in force when the wrong was committed.

"(3) Section 16 as in force before the commencement of the *Law Reform (Miscellaneous Provisions) Amendment Act 2001* continues after that commencement to apply, as if that Act had not commenced, to a wrong committed before that commencement about which –

- (a) legal proceedings were commenced before that commencement (whether or not the legal proceedings are finally determined, subject to appeal or discontinued or otherwise not proceeded with before or after that commencement); or
- (b) the persons responsible for the damage had before that commencement entered into an agreement (including an agreement about liability only) to settle claims arising from the wrong.

"(4) For the avoidance of doubt concerning the application of subsection (3)(a), the following legal proceedings are to be determined as if the *Law Reform (Miscellaneous Provisions) Amendment Act 2001* had not commenced:

- (a) legal proceedings referred to in subsection (3)(a);
- (b) any other legal proceedings that are about the wrong the subject of legal proceedings referred to in subsection (3)(a) and that are commenced after those legal proceedings (whether before or after the commencement of the *Law Reform (Miscellaneous Provisions) Amendment Act 2001*).

**7. Further amendments**

The Principal Act is amended as set out in the Schedule.

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**SCHEDULE**

Section 7

Provision	Amendment	
	omit	substitute
Section 17(2)	"fault" (twice occurring)	"wrong"
Section 18	"fault" (wherever occurring)	"wrong"
Section 19	"fault"	"wrong"
Section 20	"fault"	"wrong"