



**SUPPLEMENT No. 2**

TO

**THE CYPRUS GAZETTE No. 3724 OF 5TH NOVEMBER, 1953.**

**LEGISLATION.**

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**THE STATUTE LAWS OF CYPRUS**

**No. 38 OF 1953.**

**A LAW TO AMEND THE CIVIL WRONGS LAW.**

**CAP. 9.**

**A. B. WRIGHT,**  
*Governor.*

*[4th November, 1953.]*

**BE** it enacted by His Excellency the Governor and  
Commander-in-Chief of the Colony of Cyprus as  
follows :—

**1.** This Law may be cited as the Civil Wrongs (Amendment) Short title.  
Law, 1953, and shall be read as one with the Civil Wrongs Cap. 9.  
Law (hereinafter referred to as "the principal Law").

Amendment  
of section 2  
of the  
principal  
Law.

2. Sub-section (2) of section 2 of the principal Law is hereby amended by the deletion from the definition of "damage" occurring therein of the definition of "pecuniary damage" (the comma at the end of the definition of "damage" being substituted by a semicolon).

Substitution  
for the  
words  
"pecuniary  
damage" of  
the words  
"special  
damage"  
throughout  
the principal  
Law.

3. The principal Law is hereby amended by the substitution for the words "pecuniary damage", wherever they occur, of the words "special damage".

Amendment  
of section 10  
of the  
principal  
Law.

4. Sub-section (1) of section 10 of the principal Law is hereby amended by the insertion at the end thereof of the following proviso (the full stop at the end thereof being substituted by a colon):—

"Provided that any spouse may, for the protection and security of his or her own property, bring an action against the other for any civil wrong committed by him or her in connection with such property."

Amendment  
of section 11  
of the  
principal  
Law.

5. Section 11 of the principal Law is hereby amended by the substitution for the proviso thereto of the following proviso:—

"Provided that where damage is suffered by any person as a result of a civil wrong (whether a crime or not)—

(a) judgment recovered against any civil wrong doer 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 civil wrong doer 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 wife, husband, parent or child, of that person, against civil wrong doers liable in respect of the damage (whether as joint civil wrong doers 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."

6. Sub-section (1) of section 13 of the principal Law is hereby amended by the substitution for the proviso thereto of the following proviso :—

Amendment  
of section 13  
of the  
principal  
Law.

“ Provided that a master shall not be liable for any act committed by any person, not being another of his servants, to whom his servant shall, without his authority, express or implied, have delegated his duty.”.

7. Section 15 of the principal Law is hereby repealed and the following section substituted therefor :—

Repeal of  
section 15 of  
the principal  
Law and  
substitution  
of new  
section.

“ Effect of  
death on  
causes of  
action on  
a civil  
wrong.

15.—(1) Subject to the provisions of this section, on the death of any person all causes of action in respect of any civil wrong subsisting against, or vested in, him shall survive against, or, as the case may be, for the benefit of, his estate :

Provided that this sub-section shall not apply to causes of action for defamation.

(2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the compensation recoverable for the benefit of the estate of that person shall, where the death of that person has been caused by the act or omission which gives rise to the cause of action, be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in respect of a civil wrong which by virtue of this section has survived against the estate of a deceased person, unless either—

(a) proceedings against him in respect of that cause of action were pending at the date of his death ; or

(b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action for a civil wrong would have subsisted against any person if that person had not died before or at the same time as the damage was

suffered, there shall be deemed, for the purposes of this Law, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

(5) The rights conferred by this section for the benefit of the estates of deceased persons shall be in addition to, and not in derogation of, any rights conferred on the dependants of the deceased by this Law or any other Law.

(6) In the event of the administration in bankruptcy of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust."

**8.** The principal Law is hereby amended by the insertion therein, immediately after section 15, of the following new section :—

" Provisions relating to the armed forces.

15A.—(1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject him to liability in civil wrong for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the Crown if—

(a) at the time when that thing is suffered by that other person, he is either on duty as a member of the armed forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the Crown ; and

(b) (i) where that other person is a member of the armed forces of the Crown in right of its Government in the United Kingdom, the Minister of Pensions certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under

Amendment of the principal Law by the insertion of new section 15A.

the Royal Warrant, Order in Council or Order of Her Majesty relating to the disablement or death of members of the force of which he is a member ;

- (ii) where that other person is a member of the armed forces of the Crown in right of its Government in the Colony, the Governor-in-Council certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to a gratuity or pension under any enactment relating to the disablement or death of members of the force of which he is a member :

Provided that this sub-section shall not exempt a member of the said forces from liability in civil wrong in any case in which the Court is satisfied that the act or omission was not connected with the execution of his duties as a member of those forces.

(2) The Colonial Secretary, if satisfied that it is the fact—

- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown in right of its Government in the Colony ; or
- (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces may issue a certificate certifying that to be the fact ; and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(3) A certificate of the Admiralty or a Secretary of State—

- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown in right of its Government in the United Kingdom ; or
- (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(4) For the purposes of this section 'member of the armed forces of the Crown', unless the context otherwise requires, means a member of the armed forces of the Crown in right of its Government in the Colony or in right of its Government in the United Kingdom.

(5) Nothing in this section shall be deemed by implication or otherwise to confer any right of action against the Crown in right of its Government in the United Kingdom."

9. Sections 17 to 24 (both inclusive) of the principal Law are hereby repealed and the following sections substituted therefor :—

Repeal of sections 17 to 24 of the principal Law and substitution of new sections.

17.—(1) Defamation consists of the publication by any person by means of print, writing, painting, effigy, gestures, spoken words or other sounds, or by any other means whatsoever, including broadcasting by wireless telegraphy, of any matter which—

- (a) imputes to any other person a crime; or
- (b) imputes to any other person misconduct in any public office; or
- (c) naturally tends to injure or prejudice the reputation of any other person in the way of his profession, trade, business, calling or office; or
- (d) is likely to expose any other person to general hatred, contempt or ridicule; or
- (e) is likely to cause any other person to be shunned or avoided by other persons.

For the purposes of this sub-section, 'crime' means any offence or other act punishable under any enactment in force in the Colony and any act wheresoever committed, which, if committed in the Colony, would be punishable therein.

(2) A person is not less answerable for a defamatory statement by reason only that he—

- (a) makes it by way of repetition or hearsay; or
- (b) gives at the time or afterwards the authority on which he makes the statement; or
- (c) subject to the provisions of sections 19, 20 and 21, believes the statement to be true; or
- (d) did not intend in fact to make or publish it of and concerning the plaintiff; or

(e) subject to the provision of section 21A, was unaware of the existence of the plaintiff:

Provided that the Court may take such or like circumstances into account in awarding compensation.

(3) An action for defamation by gestures, spoken words or other sounds, other than broadcasting by wireless telegraphy, shall not lie without proof of special damage except where the gestures, spoken words or other sounds—

- (a) impute a crime for which the plaintiff may be made to suffer corporal punishment or imprisonment in the first instance;
- (b) are calculated to injure or prejudice the reputation of the plaintiff in the way of his profession, trade, business, calling or office;
- (c) impute to the plaintiff a contagious or infectious disease;
- (d) impute adultery or unchastity to a woman or girl.

(4) It is not necessary for defamation that a defamatory meaning should be directly or completely expressed; and it suffices if such meaning, and its application to the person alleged to be defamed, can be collected either from the alleged defamatory statement itself or from any extrinsic circumstances, or partly by the one and partly by the other means.

Publication  
of defama-  
tory matter.

18.—(1) A person publishes defamatory matter if he causes the print, writing, painting, effigy, gestures, spoken words, or other sounds or other means by which the defamatory matter is conveyed to be dealt with, either by exhibition, reading, recitation, description, delivery, communication, distribution, demonstration, expression or utterance, or otherwise, so that the defamatory meaning thereof becomes known or is likely to become known to any person other than—

- (a) the person defamed thereby; or
- (b) the husband or wife of the person publishing the defamatory statement so long as the marriage is subsisting.

(2) For the purposes of this section, communication by open letter or postcard, whether sent to the person defamed or to any other person, constitutes publication.

Special  
defences to  
action for  
defama-  
tion.

19. In an action for defamation it shall be a defence—

(a) that the matter of which complaint was made was true :

Provided that where the defamatory matter contains two or more distinct charges against the plaintiff, a defence under this paragraph shall not fail by reason only that the truth of every charge is not proved, if the defamatory matter not proved to be true does not materially injure the plaintiff's reputation having regard to the truth of the remaining charges ;

(b) that the matter of which complaint was made was a fair comment on some matter of public interest :

Provided that where the defamatory matter consists partly of allegations of fact and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is a fair comment having regard to such of the facts alleged or referred to in the defamatory matter complained of as are proved :

Provided further that a defence under this paragraph shall not succeed if the plaintiff proves that the publication was not made in good faith within the meaning of sub-section (2) of section 21 of this Law ;

(c) that the publication of the defamatory matter was privileged under sections 20 and 21 of this Law ;

(d) that the defamation was unintentional under section 21A of this Law.

When  
publication  
of  
defamatory  
matter  
absolutely  
privileged.

20.—(1) The publication of defamatory matter is absolutely privileged in any of the following cases, that is to say :—

(a) if the matter is published by the Governor, or by the Executive Council, or by any legislative body which may hereafter be established, in any official document or proceedings ;



- (b) if the matter is published in the Executive Council or any legislative body which may hereafter be established, and is so published by the Governor or by any member of such Council or body ;
- (c) if the matter is published by order of the Governor-in-Council ;
- (d) if the matter is published concerning a person subject to military, naval or police discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct and to some person having authority over him in respect of such conduct ;
- (e) if the matter is published in the course of any judicial proceedings by a person taking part therein as a Judge or Magistrate or advocate or witness or party thereto ;
- (f) if the matter published is in fact a fair report of anything said, done or published in the Executive Council or any legislative body which may hereafter be established and which is published by order or with the authority of such Council or body ;
- (g) if the matter published is in fact a fair, accurate and contemporaneous report of anything said, done or shown in any judicial proceedings before any Court or tribunal and the Court or tribunal has not prohibited such publication ;
- (h) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under the provisions of this section ;
- (i) if the person publishing the matter is legally bound to publish it ;
- (j) if the publication is made in any military, naval or police report made for the purposes of the defence or security of the Colony :

Provided that nothing in this section shall authorize the publication of any seditious, blasphemous or indecent matter,

(2) Where any publication of defamatory matter is absolutely privileged under the provisions of sub-section (1) of this section, it is immaterial whether the matter was true or false, and whether it was or was not known by the defendant to be false and whether it was or was not published in good faith.

When publication of defamatory matter conditionally privileged.

21.—(1) The publication of defamatory matter is privileged, on condition that it is published in good faith, in any of the following cases, that is to say:—

(a) if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under a legal, moral or social duty to publish it to the person to whom the publication is made and the last mentioned person has a corresponding interest in receiving it or the person publishing the matter has a legitimate personal interest to be protected and the person to whom the publication is made is under a corresponding legal, moral or social duty to protect that interest:

Provided that the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion;

- (b) if the matter is a censure passed by a person on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, or on the character of the other person so far as it appears in such conduct;
- (c) if the matter is a complaint or accusation made by a person against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter;
- (d) if the matter is published for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested;

(e) if the matter published is a fair and accurate report of anything said, done or published in any legislative body hereafter to be established.

(2) The publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of sub-section (1) of this section, if it is made to appear either—

(a) that the matter was untrue, and that he did not believe it to be true ; or

(b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false ; or

(c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.

(3) In any action brought in respect of the publication of any defamatory matter if such publication might be privileged under the provisions of sub-section (1) of this section, and the defence of privilege is raised, the onus of proving that such publication was not made in good faith shall be upon the plaintiff.

Unintentional  
defamation.

21A.—(1) A person who has published any matter alleged to be defamatory of another person may, if he claims that the matter was published by him innocently in relation to that other person, make an offer of amends under this section ; and in any such case—

(a) if the offer is accepted by the party aggrieved and is duly performed, no proceedings for defamation shall be taken or continued by that party against the person making the offer in respect of the publication in question (but without prejudice to any cause of action against any other person jointly responsible for that publication) ;

(b) if the offer is not accepted by the party aggrieved, then, except as otherwise provided by this section, it shall be a defence, in any proceedings by him for defamation against the person making

the offer in respect of the publication in question, to prove that the matter complained of was published by the defendant innocently in relation to the plaintiff and that the offer was made as soon as practicable after the defendant received notice that it was or might be defamatory of the plaintiff and has not been withdrawn.

(2) An offer of amends under this section must be expressed to be made for the purposes of this section, and must be accompanied by an affidavit specifying the fact relied upon by the person making it to show that the matter in question was published by him innocently in relation to the party aggrieved ; and for the purposes of a defence under paragraph (b) of sub-section (1) of this section no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of that person to prove that the matter was so published.

(3) An offer of amends under this section shall be understood to mean an offer—

(a) in any case, to publish or join in the publication of a suitable correction of the matter complained of, and a sufficient apology to the party aggrieved in respect of that matter ;

(b) where copies of a document or record containing the said matter have been distributed by or with the knowledge of the person making the offer, to take such steps as are reasonably practicable on his part for notifying persons to whom copies have been so distributed that the matter is alleged to be defamatory of the party aggrieved.

(4) Where an offer of amends under this section is accepted by the party aggrieved—

(a) any question as to the steps to be taken in fulfilment of the offer as so accepted shall, in default of agreement between the parties, be referred to and determined by the Court, whose decision thereon shall be final ;

(b) the power of the Court to make orders as to costs in proceedings by the party aggrieved against the person making the offer in respect of the publication in question, or in proceedings in respect of the offer under paragraph (a) of this sub-section, shall

include power to order the payment by the person making the offer to the party aggrieved of costs on an indemnity basis and any expenses reasonably incurred or to be incurred by that party in consequence of the publication in question, and if no such proceedings as aforesaid are taken, the Court may, upon application made by the party aggrieved, make any such order for the payment of such costs and expenses as aforesaid as could be made in such proceedings.

(5) For the purposes of this section matter shall be treated as published by one person (in this sub-section referred to as 'the publisher') innocently in relation to another person if and only if the following conditions are satisfied, that is to say—

(a) that the publisher did not intend to publish it of and concerning that other person, and did not know of circumstances by virtue of which it might be understood to refer to him; or

(b) that the matter was not defamatory on the face of it, and the publisher did not know of circumstances by virtue of which it might be understood to be defamatory of that other person,

and in either case that the publisher exercised all reasonable care in relation to the publication; and any reference in this sub-section to the publisher shall be construed as including a reference to any servant or agent of his who was concerned with the contents of the publication.

(6) Paragraph (b) of sub-section (1) of this section shall not apply in relation to the publication by any person of matter of which he is not the author unless he proves that the matter was written by the author without malice.

Mitigation  
of compensation  
for  
defamation.

22. The defendant in any action for defamation may, after reasonable notice to the plaintiff of his intention so to do, prove in mitigation of any compensation that may be awarded—

(a) that he made or offered an apology to the plaintiff before the commencement of the action or as soon afterwards as he had an opportunity, if the action was commenced before he had an opportunity of so doing;

Cap. 136.  
10 of 1951  
25 of 1951.

- (b) that the defamatory matter was contained in a newspaper, a subsisting permit to publish which has been issued under the provisions of the Press Law, and that the plaintiff has already recovered, or brought an action for, compensation, or received or agreed to receive some recompense in respect of defamatory matter to the same purpose or effect as the defamatory matter in respect of the publication of which such action has been brought ;
- (c) that prior to the publication of the defamatory matter the plaintiff was of general bad reputation in connection with the particular trait of his character which is assailed by the defamation ;
- (d) that the defendant received provocation from the plaintiff ;

and the Court may, having regard to the circumstances of the case, take all or any of such matters into consideration in assessing compensation.

Special  
defence in  
case of  
defamatory  
matter  
published in  
newspaper.

Cap. 136.  
10 of 1951.  
25 of 1951.

23. In any action brought against the proprietor of any newspaper, a subsisting permit to publish which has been issued to him under the provisions of the Press Law, in respect of any defamatory matter contained in such newspaper, the proprietor of such newspaper may, if he pays into Court a sum of money which in the opinion of the Court is sufficient amends, and pleads no other defence, prove by way of defence—

- (a) that the defamatory matter was inserted without actual malice ; and
- (b) that there was no gross lack of reasonable care for which he was liable in connection with the insertion of such defamatory matter ; and
- (c) that before the commencement of the action or so soon afterwards as he had an opportunity, if the action was begun before he had an opportunity of so doing, he inserted in such newspaper a full apology, or if the newspaper is published at intervals exceeding one week, that he offered to publish the apology in any newspaper selected by the plaintiff.

Injurious  
falsehood.

24.—(1) Injurious falsehood consists of the publication maliciously by any person of a false statement, whether oral or otherwise, concerning—

(a) the profession, trade, business, calling or office; or

(b) the goods; or

(c) the title to property

of any other person :

Provided that, subject to sub-section (2) of this section, no person shall recover compensation in respect thereof unless he has suffered special damage thereby.

(2) In an action under sub-section (1) of this section, it shall not be necessary to allege or prove special damage—

(a) if the words upon which the action is founded are calculated to cause pecuniary loss to the plaintiff and are published in writing or other permanent form ; or

(b) if the said words are calculated to cause pecuniary loss to the plaintiff in respect of any office, profession, calling, trade or business held or carried on by him at the time of the publication.

(3) For the purposes of this section, ‘ publication ’ has the same meaning as it has in section 18 in relation to defamatory matter.”.

10. The principal Law is hereby amended by the insertion therein, immediately after section 24, of the following new sections :—

“ Assault.

24A.—(1) Assault consists of intentionally applying force of any kind whether by way of striking, touching, moving, or otherwise, to the person of another, either directly or indirectly, without his consent, or with his consent if the consent is obtained by fraud, or attempting or threatening by any act or gesture to apply such force to the person of another if the person making the attempt or threat causes the other to believe upon reasonable grounds that he has the present intention and ability to effect his purpose.

(2) For the purposes of this section, the expression ‘ applying force ’ includes applying heat, light, electrical force, gas, odour or any other substance or thing whatever if applied in such a degree as to cause damage.

Amendment  
of the  
principal  
Law by the  
insertion of  
new sections  
24A, 24B and  
24c.

Special  
defences  
to action  
for assault.

24B. In any action brought in respect of any assault it shall be a defence—

- (a) that the defendant acted for the protection of himself or another person against an unlawful use of force by the plaintiff, and that in so acting he did no more than was reasonably necessary for that purpose and the damage caused to the plaintiff by the assault was not disproportionate to the damage sought to be avoided ;
- (b) that the defendant, being the occupier of any immovable property, or acting under the authority of such occupier, used a reasonable degree of force in order to prevent the plaintiff from unlawfully entering upon such immovable property or to eject the plaintiff therefrom after he had unlawfully entered or remained thereupon :

Provided that—

- (i) if the plaintiff did not enter, or attempt to enter, upon such immovable property by force, the defendant shall have requested the plaintiff to refrain from entering upon, or, having entered upon, to depart from, such immovable property, and shall have given the plaintiff a reasonable opportunity of peaceably complying with his request ;
  - (ii) the force used shall amount to nothing more than forcible prevention or removal and shall, except where the plaintiff seeks to enter by the means of a forcible felony, not include beating, wounding or other physical injury ;
- (c) the defendant, being entitled to the possession of any movable property, used a reasonable degree of force in order to defend his possession thereof, or if the plaintiff has wrongfully taken or detained such movable property from him, the defendant used a reasonable degree of



force to retake possession thereof from the plaintiff :

Provided that—

- (i) if the plaintiff did not take or attempt to take such movable property by force, the defendant shall have requested the plaintiff to refrain from taking, or, having taken, to restore to the defendant, such movable property, and shall have given the plaintiff a reasonable opportunity of peaceably complying with his request ;
- (ii) the force used shall amount to nothing more than forcible prevention or retaking and shall not include beating, wounding or other physical injury ;
- (d) that the defendant was acting in the execution of or lawfully assisting in the execution of any warrant, committal, order of commitment or writ of attachment issued by any Court or other lawful authority having jurisdiction thereto, provided that the act complained of was authorized by such warrant, committal, order of commitment or writ of attachment and notwithstanding any defect in or in the issue of such warrant, committal, order of commitment or writ of attachment ;
- (e) that the plaintiff was of unsound mind or was suffering from infirmity of mind or body and that the force used was, or appeared to be, reasonably necessary for his own protection or for that of other persons and was exercised in good faith and without malice ;
- (f) that the plaintiff and defendant were both members of Her Majesty's armed forces and that the defendant acted under the authority of and in accordance with any Imperial Act or other law or enactment applicable to such forces ;
- (g) that the defendant was the parent, guardian or schoolmaster of the plaintiff or other person whose relationship to the plaintiff was similar to that of his parent, guardian

or schoolmaster, and administered to the plaintiff only such chastisement as was reasonably necessary for the purpose of correction;

(h) that the defendant acted in good faith for what he had reason to believe to be the benefit of the plaintiff but was unable before doing such act to obtain the consent of the plaintiff thereto, as the circumstances were such that it was impossible for the plaintiff to signify his consent or for some person in lawful charge of the plaintiff to consent on behalf of the plaintiff and the defendant had reason to believe that it was for the benefit of the plaintiff that he should not delay in doing such act.

Liability for assault of agent or servant.

24C. Notwithstanding anything contained in this Law, no principal or master shall be liable for any assault committed by his agent or servant against any other person unless he has expressly authorized or ratified such assault.”.

**11.** Section 30 of the principal Law is hereby repealed and the following section substituted therefor:—

“Unlawfully causing breach of contract.

30.—(1) Any person who, otherwise than in furtherance of a strike or lockout in respect of a trade dispute within the trade or industry in which the strikers or persons locking out are engaged, knowingly and without sufficient justification, causes any other person to break a legally binding contract with a third person, commits a civil wrong against such third person.

(2) For the purposes of this section, the relationship created by marriage shall not be deemed to be a contract.”.

**12.** Section 39 of the principal Law is hereby repealed and the following section substituted therefor:—

“Trespass to immovable property.

39.—(1) Trespass to immovable property consists of any unlawful entry upon, or any unlawful damage to or interference with, any such property by any person.

(2) Where the acts complained of are permitted by local custom, such custom if established shall be a defence but in any action brought in respect of any trespass to immovable property the onus of showing that the act of which complaint is made was not unlawful shall be upon the defendant.”.

Repeal of section 30 of the principal Law and substitution of new section.

Repeal of section 39 of the principal Law and substitution of new section.

**13.** Section 40 of the principal Law is hereby amended by the deletion therefrom of the proviso to sub-section (1) and the substitution for the colon at the end thereof of a full stop.

Amendment of section 40 of the principal Law.

*in Cap. 9 (1949 Ed.) - Sect. 46 in Cap. 148 (1959 Ed.)*  
**14.** Section 42 of the principal Law is hereby amended by the substitution for the word "occupier" (line 3) of the words "owner or occupier".

Amendment of section 42 of the principal Law.

**15.** Section 52 of the principal Law is hereby repealed and the following new section substituted therefor:—

Repeal of section 52 of the principal Law and substitution of new section.

"Special defences to action for negligence.

52. In any action brought in respect of any negligence it shall be a defence, notwithstanding that the defendant was negligent,—

- (a) that some third person was negligent and that such third person's negligence was the decisive cause of the damage; or
- (b) that the damage was due to the happening of some extraordinary natural occurrence which a reasonable person would not have anticipated and the consequences of which could not have been avoided by the exercise of reasonable care."

**16.** The principal Law is hereby amended by the insertion therein, immediately after section 52, of the following new section:—

Amendment of the principal Law by the insertion of new section 52A.

"Apportionment of liability in case of contributory negligence.

52A.—(1) Where any person suffers damage as the result partly of his 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 sub-section 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 sub-section shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of sub-section (1) of this section, 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) Section 62 of this Law (which relates to contribution between joint and several wrong doers), shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of sub-section (1) of this section, in respect of the damage suffered by any person.

(4) Where any person dies as the result partly of his 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 section 15 of this Law, the damages recoverable would be reduced under sub-section (1) of this section, any damages recoverable in an action brought for the benefit of the dependants of that person under section 53 of this Law, shall be reduced to a proportionate extent.

(5) Where, in any case to which sub-section (1) of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading section 66 of this Law, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said sub-section.

(6) Article 21 of the Convention contained in the First Annex to the First Schedule to the Carriage by Air (Colonies, Protectorates and Mandated Territories) Order, 1934 (which empowers a Court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person), shall have effect subject to the provisions of this section.

(7) For the purposes of this section—

‘damage’ includes loss of life and personal injury;

‘dependant’ means any person for whose benefit an action could be brought under section 53 of this Law;

‘fault’ means negligence, breach of statutory duty, or other act or omission which gives rise to a liability in tort or would, apart from this Law, give rise to the defence of contributory negligence.”

17. Sub-section (2) of section 53 of the principal Law is hereby repealed and the following sub-section substituted therefor :—

Amendment of section 53 of the principal Law.

“(2) For the purposes of this section—

‘child’ includes any grand-child, step-child, illegitimate child, a child adopted in a manner recognized by law, and a child *en ventre sa mère* ;

‘parent’ includes a step parent and a grand parent.”

18.—(1) Part IV of the principal Law (consisting of sections 56 to 58, both inclusive) is hereby repealed (the ensuing Parts V and VI being renumbered as Parts IV and V, respectively).

Repeal of Part IV of the principal Law and renumbering of ensuing Parts.

(2) This section shall come into operation and take effect as from the date on which the Courts of Justice Law, 1953, comes into operation.

19. Section 62 of the principal Law is hereby repealed and the following section substituted therefor :—

Repeal of section 62 of the principal Law and substitution of new section.

“Recovery of contribution from joint civil wrong doers, etc.

62.—(1) Where damage is suffered by any person as a result of a civil wrong, any joint wrong doers liable in respect of that damage may recover contribution from any other wrong doer who is, or would, if sued, have been, liable in respect of the same damage, whether as joint wrong doer or otherwise, so, however, that no person shall be entitled to recover contribution under this section from any person entitled to be indemnified by him in respect of the liability in respect of which the contribution is sought.

(2) In any proceedings under this section 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 extension of such 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.”

Amendment  
of section 67  
of the  
principal  
Law.

20. Section 67 of the principal Law is hereby amended as follows:—

(a) by the substitution for paragraph (c) thereof of the following paragraph:—

7 of 1951. “(c) the provisions of the Companies Law, 1951;”;

(b) by the insertion therein of the following paragraph:—

“(d) the provisions of section 40 of the Civil Aviation Act, 1949 (as set out in paragraph 10 of Schedule I to the Colonial Civil Aviation (Application of Act) Orders, 1952 and 1953.”.

*Gazette :*  
Supplement  
No. 2A :  
11.6.1952.  
28.5.1953.

Saving.

21. Nothing in this Law contained shall affect any proceedings begun before its commencement.

J. FLETCHER-COOKE,  
*Colonial Secretary.*

4th November, 1953.