

# Wrongs (Contribution) Bill

## EXPLANATORY MEMORANDUM

*Clauses 1, 2 and 3:* contain the usual provisions relating to the short title; the commencement of the Act and reference to the Principal Act.

*Clause 4:* inserts two new sections into the Principal Act. The first section (S. 23A) contains the interpretation of certain terms; the second section (S. 23B) outlines generally the circumstances where a person is entitled to seek contribution and where a person is liable to make contribution.

In particular, it provides that a person is now liable for contribution not only in tort but also in respect of a breach of contract, a breach of trust or otherwise—if the person who suffered the damage is entitled to recover compensation from that person for the damage suffered.

*Clause 5:* makes a consequential amendment to S. 24 (2) of the Principal Act and inserts after that sub-section two new sub-sections into section 24. These new sub-sections provide that a person shall not be required to pay any amount exceeding any statutory or contractual limitation, that any reduction by way of contributory negligence shall be taken into account and that a court or jury shall (except in the case of court-approved settlement or compromise involving a minor or a person of unsound mind) disregard any amount of payment made to the plaintiff under a settlement or compromise which it considers was excessive.

*Clause 6:* extends the present time-limits for claims of contribution based on tort to claims for contribution based on a breach of contract, breach of trust, or otherwise.

*Clause 7:* inserts new Sections 24AA to 24AD into Part IV of the Principal Act.

Sections 24AA and 24AB continue to allow a plaintiff to take action against any number of persons who are jointly liable for the same debt or damage but removes the existing sanction that damages of the second or other actions cannot be greater than the damages recovered in the first judgment.

Section 24AC renders the Crown liable for contribution in the same manner as a subject.

Section 24AD provides that the new provisions shall not apply to debts due, damage occurring or liability based on a breach of an obligation occurring before the commencement of the new Act. It also continues existing exemptions relating to contribution claims.

*Clause 8:* provides for consequential amendments and repeals.

