



REPUBLIC OF SOUTH AFRICA  
**GOVERNMENT GAZETTE**

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**STAATSKOERANT**  
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DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1017. 16th June, 1971.

No. 1017. 16 Junie 1971.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 58 of 1971: Apportionment of Damages Amendment Act, 1971.

No. 58 van 1971: Wysigingswet op die Verdeling van Skadevergoeding, 1971.

# ACT

To amend the Apportionment of Damages Act, 1956, so as further to amend the law relating to the liability of persons jointly or severally liable in delict for the same damage; to provide for matters incidental thereto; to apply the said Act also to the Eastern Caprivi Zipfel; and to provide for incidental matters.

(English text signed by the State President.)  
(Assented to 4th June, 1971.)

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 34 of 1956.

1. Section 2 of the Apportionment of Damages Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion after subsection (1) of the following subsections:

“(1A) Subject to the provisions of the first proviso to subsection (6) (a), a person shall for the purposes of this section be regarded as a joint wrongdoer if he would have been a joint wrongdoer but for the fact that he is married in community of property to the plaintiff.

(1B) Subject to the provisions of the second proviso to subsection (6) (a), if it is alleged that the plaintiff has suffered damage as a result of any injury to or the death of any person and that such injury or death was caused partly by the fault of such injured or deceased person and partly by the fault of any other person, such injured person or the estate of such deceased person, as the case may be, and such other person shall for the purposes of this section be regarded as joint wrongdoers.”; and

(b) by the addition to subsection (6) (a) of the following provisos:

“Provided that the amount of the damages recovered by the plaintiff referred to in subsection (1A) from any joint wrongdoer against whom the judgment has been given shall, for the purpose of the recovery of a contribution from the person referred to in the last-mentioned subsection, not be deemed to form part of the joint estate of such plaintiff and such person except in so far as any such amount relates to an asset of the said joint estate: Provided further that if the court, in determining the full amount of the damage suffered by the plaintiff referred to in subsection (1B), deducts from the estimated value of the support of which the plaintiff has been deprived by reason of the death of any person, the value of any benefit which the plaintiff has acquired from the estate of such deceased person, no contribution which the said joint wrongdoer

WYSIGINGSWET OP DIE VERDELING VAN  
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Wet No. 58, 1971

**WET**

Tot wysiging van die Wet op Verdeling van Skadevergoeding, 1956, om die reg op die aanspreeklikheid van persone wat gesamentlik of afsonderlik vir dieselfde skade uit delik aanspreeklik is, verder te wysig; om vir daarmee in verband staande aangeleenthede voorsiening te maak; om genoemde Wet ook op die Oostelike Caprivi Zipfel toe te pas; en om voorsiening te maak vir bykomstige aangeleenthede.

(Engelse teks deur die Staatspresident geteken.)  
(Goedgekeur op 4 Junie 1971.)

**DAAR WORD BEPAAL** deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 2 van die Wet op Verdeling van Skadevergoeding, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur na subartikel (1) die volgende subartikels in te voeg:
- „(1A) Behoudens die bepalings van die eerste voorbehoudsbepaling by subartikel (6) (a), word 'n persoon by die toepassing van hierdie artikel geag 'n mededader te wees indien hy 'n mededader sou gewees het as dit nie was vir die feit dat hy binne gemeenskap van goedere met die eiser getroud is nie.
- (1B) Behoudens die bepalings van die tweede voorbehoudsbepaling by subartikel (6) (a), indien dit beweer word dat die eiser skade gely het as gevolg van die besering of dood van 'n ander persoon en dat sodanige besering of dood deels aan die skuld van die beseerde of oorlede persoon en deels aan die skuld van 'n ander persoon te wyte was, word sodanige beseerde persoon of die boedel van sodanige oorlede persoon, na gelang van die geval, en sodanige ander persoon, by die toepassing van hierdie artikel geag mededaders te wees.”; en
- (b) deur die volgende voorbehoudsbepalings by subartikel (6) (a) te voeg:
- „Met dien verstande dat die bedrag van die skadevergoeding wat deur die in subartikel (1A) bedoelde eiser van 'n mededader teen wie die vonnis gegee is, verhaal word, vir die doel van die verhaal van 'n bydrae van die persoon in laasgenoemde subartikel bedoel, nie geag word deel van die gemeenskaplike boedel van sodanige eiser en sodanige persoon uit te maak nie behalwe vir sover so 'n bedrag betrekking het op 'n bate van die bedoelde gemeenskaplike boedel: Met dien verstande voorts dat indien die hof by die vasstelling van die volle bedrag van die skade wat die in subartikel (1B) bedoelde eiser gely het, die waarde van 'n voordeel wat die eiser uit die boedel van 'n oorlede persoon verkry het, aftrek van die geraamde waarde van die onderhoud wat die eiser ontnem is weens die dood van sodanige persoon, geen bydrae wat die bedoelde mededader van die boedel van die

Wysiging van  
artikel 2 van  
Wet 34 van 1956.

**Act No. 58, 1971**      **APPORTIONMENT OF DAMAGES AMENDMENT ACT, 1971.**

may so recover from the estate of the said deceased person shall deprive the plaintiff of the said benefit or any portion thereof.”.

Substitution of section 6 of Act 34 of 1956.

**2.** The following section is hereby substituted for section 6 of the principal Act:

“Applica- **6.** This Act and any amendment thereof shall  
tion of Act apply also in the territory of South-West Africa,  
to South- including the Eastern Caprivi Zipfel.”.  
West Africa.

Saving.

**3.** The provisions of section 1 of this Act shall not apply in respect of any wrongful act committed before the commencement of this Act.

Short title.

**4.** This Act shall be called the Apportionment of Damages Amendment Act, 1971.

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bedoelde oorlede persoon aldus kan verhaal, die eiser daardie voordeel of enige gedeelte daarvan mag ontnem nie.”.

2. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang: Vervanging van artikel 6 van Wet 34 van 1956.

„Toepassing 6. Hierdie Wet en 'n wysiging daarvan is ook in van Wet op die gebied Suidwes-Afrika, met inbegrip van die gebied Oostelike Caprivi Zipfel, van toepassing.”.

die gebied Suidwes-Afrika.

3. Die bepalings van artikel 1 van hierdie Wet is nie van toepassing ten opsigte van 'n onregmatige daad wat voor die inwerkingtreding van hierdie Wet gepleeg is nie. Voorbehoud.

4. Hierdie Wet heet die Wysigingswet op Verdeling van Kort titel. Skadevergoeding, 1971.