

Jurisdiction	Legislation	Commencement Date	Ability to contract out	Does the Act apply to consumers?	Can the Court have regard to responsibility of wrongdoer who is not a party to proceedings?	Defendant's obligation to inform the plaintiff of identify of other wrongdoers	Can a concurrent wrongdoer recover from or rely on a contractual indemnity from another concurrent wrongdoer?	Can a defendant seek contribution from a person who is not a party to the original proceeding?	What is the limitation period for a defendant to seek a contribution from a person who is not a party to the original proceeding?
QLD	<i>Civil Liability Act 2003</i>	<b>1 March 2005</b> for any breach of duty happening on or after that date (refer to s 4(3))	<b>No</b> (refer to s 7(3))	<b>No</b> (refer to s 28(3)(b))	<b>Yes</b> (refer to s 31(3))	Defendant must inform the claimant (refer s 32)	<b>No</b> (refer to s 32A)	<b>Yes</b> (refer to s 32H)	The first of: a. Two years from the date liability of the tortfeasor seeking contribution has been determined; or b. Four years from the date of the expiration of the limitation period for the principle action.  (refer to s 40 <i>Limitation of Actions Act 1974</i> )

# CN|FACT SHEET 21

## A COMPARISON OF PROPORTIONATE LIABILITY IN AUSTRALIAN JURISDICTIONS

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VIC	<i>Wrongs Act 1958</i>	<b>1 January 2004</b> for any action commenced on or after that date, but not where the cause of action which arose prior to 26 July 2004	No (Silent)	Yes	No (Court must not unless the person is not a party to the proceeding because the person is dead or, if the person is a corporation, the corporation has been wound up – refer to s 24AI(3))	No (Silent)	No (refer to s 24AJ)	Yes (refer to s 23B)	The date the limitation period expires for the principle action  (refer to s23B(3))
NSW	<i>Civil Liability Act 2002</i>	<b>1 December 2004</b> for any action commenced on or after that date	Yes (refer to s 3A)	Yes	Yes (refer to s 35(3))	Yes The defendant is encouraged to (refer to s 35A)	No (refer to s 36)	Yes (refer to s 19)	The first of:  a. Two years from the date liability of the tortfeasor seeking contribution has been determined; or  b. Four years from the date of the expiration of the limitation period for the principle action.  (refer to s 26 <i>Limitation Act 1969</i> )

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WA	<i>Civil Liability Act 2002</i>	<b>1 December 2004</b> for any cause of action which accrues on or after that date (refer to s 5AJ(4))	<b>Yes</b> The defendant is encouraged to (s 4A)	<b>Yes</b>	<b>Yes</b> (refer to s 5AK(3))	<b>Yes</b> The defendant is encouraged to (refer to s 5AKA).	<b>No</b> Unless the defendant has contracted out with the other concurrent wrongdoer (refer to s AL).	<b>Yes</b> (refer to s 5AM)	Two years from the time the cause of action accrued.  (refer to s17 <i>Limitation Act 2005</i> )
ACT	<i>Civil Law (Wrongs) Act 2002</i>	<b>8 March 2005</b> for any action commenced on or after that date	<b>No</b> (Silent)	<b>No</b> (refer to ss 107B(3), 107C).	<b>Yes</b> (refer to s 107F).	<b>Yes</b> The defendant is encouraged to (refer to s 107G).	<b>No</b> (refer to s 107H).	<b>Yes</b> (refer to s 21).	The first of:  a. Two years from the date liability of the tortfeasor seeking contribution has been determined; or  b. Four years from the date of the expiration of the limitation period for the principle action.  (refer to s 21 <i>Limitation Act 1985</i> )

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NT	<i>Proportionate Liability Act 2005</i>	<b>1 June 2005</b> for when the loss or damage to which the claim relates occurs partly or wholly after that date	<b>Yes/No</b> Concurrent wrongdoers only silent as between plaintiff and defendant	<b>No</b> (refer to s 4)	<b>Yes</b> (refer to s 13)	<b>Yes</b> The defendant is encouraged to (refer to s 12)	<b>No</b> Unless the defendant has agreed to contribute to the damages or indemnify another concurrent wrongdoer (refer to s 15)	<b>Yes</b> (refer to s12, <i>Law Reform (Miscellaneous Provisions) Act 1956</i> )	The first of: a. Two years from the date liability of the tortfeasor seeking contribution has been determined; or b. Four years from the date of the expiration of the limitation period for the principle action.  (refer to s 24 <i>Limitation Act 1981</i> )
TAS	<i>Civil Liability Act 2002</i>	<b>1 June 2005</b> for any cause of action which accrues on or after that date	<b>Yes</b> (refer to s 3A).	<b>Yes</b>	<b>Yes</b> (refer to s 43B).	<b>Yes</b> The defendant is encouraged to (refer to s 43D).	<b>No</b> Unless the defendant has agreed to contribute to the damages or indemnify another concurrent wrongdoer (refer to s 43C).	<b>Yes</b> (refer to s 3 <i>Wrongs Act 1954</i> )	12 months from the date the writ in the original action was served on the person seeking to recover contribution.  (refer to s 3(5) <i>Wrongs Act 1954</i> )

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SA	<i>Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001</i>	<b>1 October 2005</b> for any cause of action which accrues on or after that date	No (Silent)	Yes	Yes (refer to s 8(2))	Yes The defendant is obliged to (refer to s 10)	No However, the defendant might be able to contract out with other concurrent wrongdoers (refer to s 6).	Yes (refer to s 6).	The longer of the following: a. the time within which the plaintiff could have brought an action against the person (being six years after the cause of action arose); or b. Two years after the damages payable by the person entitled to contribution are finally determined.  (refer to s 6(4))
CTH	<i>Trade Practices Act 1974</i>	<b>26 July 2004</b> for any cause of action which arises on or after that date until the commencement of the <i>Competition and Consumer Act 2010</i>	No (Silent in respect of proportionate liability)	Yes	Yes (refer to s 87CD (3)(b))	Yes (refer to s 87CE (1))	No (refer to s 87CF (b))	Act silent	Act silent

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CTH	<i>Competition and Consumer Act 2010</i>	<b>1 January 2011</b> for any cause of action which arises on or after that date	<b>No</b> (Silent in respect of proportionate liability)	<b>Yes</b>	<b>Yes</b> (refer to s 87CD (3)(b))	<b>Yes</b> (refer to s 87CE (1))	<b>No</b> (refer to s 87CF (b))	<b>Act silent as to contribution.</b>  Can join concurrent wrongdoers pursuant to s 87CH.	<b>Act silent</b>
CTH	<i>Corporations Act 2001</i>	<b>26 July 2004</b> for any cause of action which arises on or after that date	<b>No</b> (Silent in respect of proportionate liability)	<b>Yes</b>	<b>Yes</b> (refer to s 1041N)	<b>Yes</b> (refer to s 1041O).	<b>No</b> (refer to s 1041P).	<b>Act silent as to contribution.</b>  Can join concurrent wrongdoers pursuant to s 1041R.	<b>Act silent</b>

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CTH	<i>Australian Securities and Investments Commission Act 2001</i>	<b>26 July 2004</b> for any cause of action which arises on or after that date	<b>No</b> (Silent in respect of proportionate liability)	<b>Yes</b>	<b>Yes</b> (refer to s 12GR)	<b>Yes</b> (refer to s 12GS).	<b>No</b> (refer to s 12GT).	<b>Act silent</b>	<b>Act silent</b>

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