



Isle of Man

Ellan Vannin

AT 13 of 1981

FATAL ACCIDENTS ACT 1981



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**Isle of Man***Ellan Vannin*

FATAL ACCIDENTS ACT 1981

Received Royal Assent: 31 July 1981
Passed: 13 October 1981
Commenced: 1 December 1981

AN ACT to consolidate with amendments the Fatal Accidents Acts.

1 Right of action for wrongful act causing death

[P1976/30/1; P1982/53/3]

- (1) If death is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured.
- (2) Subject to section 1A(2), every such action shall be for the benefit of the dependants of the person (“the deceased”) whose death has been so caused.
- (3) In this Act “**dependant**” means —
 - (a) the wife or husband or former wife or husband of the deceased;
 - (aa) the civil partner or former civil partner of the deceased;¹
 - (b) any person who —
 - (i) was living with the deceased in the same household immediately before the date of the death; and
 - (ii) had been living with the deceased in the same household for at least two years before that date; and
 - (iii) was living during the whole of that period as the husband or wife or civil partner of the deceased;²
 - (c) any parent or other ascendant of the deceased;
 - (d) any person who was treated by the deceased as his parent;
 - (e) any child or other descendant of the deceased;
 - (f) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was

- treated by the deceased as a child of the family in relation to that marriage;
- (fa) any person (not being a child of the deceased) who, in the case of any civil partnership in which the deceased was at any time a civil partner, was treated by the deceased as a child of the family in relation to that civil partnership;³
 - (g) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.
- (4) The reference to the former wife or husband of the deceased in subsection (3)(a) includes a reference to a person whose marriage to the deceased has been annulled or declared void as well as a person whose marriage to the deceased has been dissolved.
- (4A) The reference to the former civil partner of the deceased in subsection (3)(aa) above includes a reference to a person whose civil partnership with the deceased has been annulled as well as a person whose civil partnership with the deceased has been dissolved.⁴
- (5) In deducing any relationship for the purposes of subsection (3) —
- (a) any relationship by marriage or civil partnership shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the stepchild of any person as his child, and⁵
 - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.
- (6) Any reference in this Act to injury includes any disease and any impairment of a person's physical or mental condition.⁶

1A Bereavement

[P1976/30/1A; P1982/53/3]

- (1) An action under this Act may consist of or include a claim for damages for bereavement.
- (2) A claim for damages for bereavement shall only be for the benefit —
- (a) of the wife or husband or civil partner of the deceased; and⁷
 - (b) where the deceased was a minor who was never married or a civil partner —
 - (i) of his parents, if he was legitimate; and
 - (ii) of his mother, if he was illegitimate.⁸
- (3) Subject to subsection (5) below, the sum to be awarded as damages under this section shall be £10,000.⁹
- (4) Where there is a claim for damages under this section for the benefit of both the parents of the deceased, the sum awarded shall be divided

equally between them (subject to any deduction falling to be made in respect of costs not recovered from the defendant).

- (5) The Treasury may by order amend this section by varying the sum for the time being specified in subsection (3).¹⁰
- (6) An order under subsection (5) shall not come into operation until it is approved by Tynwald.¹¹

2 Persons entitled to bring the action

[P1976/30/2; P1982/53/2]

- (1) The action shall be brought by and in the name of the executor or administrator of the deceased.
- (2) If —
 - (a) there is no executor or administrator of the deceased, or
 - (b) no action is brought within six months after the death by and in the name of an executor or administrator of the deceased,the action may be brought by and in the name of all or any of the persons for whose benefit an executor or administrator could have brought it.
- (3) Not more than one action shall lie for and in respect of the same subject matter of complaint.
- (4) The plaintiff in the action shall be required to deliver to the defendant or his advocate full particulars of the persons for whom and on whose behalf the action is brought and of the nature of the claim in respect of which damages are sought to be recovered.¹²

3 Assessment of damages

[P1976/30/3; P1982/53/3]

- (1) In the action such damages, other than damages for bereavement, may be awarded as are proportioned to the injury resulting from the death to the dependants respectively.
- (2) After deducting the costs not recovered from the defendant any amount recovered otherwise than as damages for bereavement shall be divided among the dependants in such shares as may be directed.
- (3) In an action under this Act where there fall to be assessed damages payable to a surviving spouse or surviving civil partner, no account shall be taken of —
 - (a) the fact that the survivor has married or formed a civil partnership; or
 - (b) the prospects of the survivor marrying or forming a civil partnership.¹³

- (4) In an action under this Act where there fall to be assessed damages payable to a person who is a dependant by virtue of section 1(3)(b) in respect of the death of the person with whom the dependant was living as spouse or civil partner there shall be taken into account (together with any other matter that appears to the court to be relevant to the action) the fact that the dependant had no enforceable right to financial support by the deceased as a result of their living together.¹⁴
- (5) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (6) Money paid into court in satisfaction of a cause of action under this Act may be in one sum without specifying any person's share.¹⁵

4 Assessment of damages: disregarded of benefits

[P1976/30/4; P1982/53/3]

In assessing damages in respect of a person's death in an action under this Act, benefits which have accrued or will or may accrue to any person from his estate or otherwise as a result of his death shall be disregarded.¹⁶

4A Provisional damages and fatal accident claims

[P1996/48/3]

- (1) This section applies where a person —
 - (a) is awarded provisional damages; and
 - (b) subsequently dies as a result of the act or omission which gave rise to the cause of action for which the damages were awarded.
- (2) The award of the provisional damages shall not operate as a bar to an action in respect of that person's death under this Act.
- (3) Such part (if any) of —
 - (a) the provisional damages; and
 - (b) any further damages awarded to the person in question before his death,

as was intended to compensate him for pecuniary loss in a period which in the event falls after his death shall be taken into account in assessing the amount of any loss of support suffered by the person or persons for whose benefit the action under this Act is brought.

- (4) No award of further damages made in respect of that person after his death shall include any amount for loss of income in respect of any period after his death.
- (5) In this section —

“provisional damages” means damages awarded by virtue of section 33(2)(a) of the *High Court Act 1991*, and

“further damages” means damages awarded by virtue of section 33(2)(b) of that Act.¹⁷

5 Contributory negligence

[P1976/30/5]

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 the *Law Reform (Miscellaneous Provisions) Act 1938* the damages recoverable would be reduced under section 1(1) of the *Law Reform (Contributory Negligence) Act 1946*, any damages recoverable in an action under this Act shall be reduced to a proportionate extent.¹⁸

6 Consequential amendments

- (1) The enactments specified in Schedule 1 shall have effect subject to the amendments specified in that Schedule.
- (2) [Repealed]¹⁹

7 Short title, etc

- (1) This Act may be cited as the Fatal Accidents Act 1981.
- (2) This Act shall come into force on such date as the Governor in Council may by order appoint but shall not apply to any cause of action arising on a death before it comes into force.²⁰

Schedule 1

[Section 6]

CONSEQUENTIAL AMENDMENTS*General*

1. (1) Any enactment or other document whatsoever referring to any enactment repealed by this Act shall, unless the contrary intention appears, be construed as referring (or as including a reference) to the corresponding enactment in this Act.
(2) This paragraph applies whether or not the enactment or other document was enacted, made, served or issued before the passing of this Act.
(3) Nothing in this Schedule affects the application of Division 4 of Part 4 of the *Legislation Act 2015* (default savings and transitional provisions).²¹
2. (1) In the following enactments references to the Fatal Accidents Acts, or to the Fatal Accidents Act 1952, or to any provision of that Act, include references to this Act.
(2) The said enactments are —
 - (a) section 7(3)(a) of the *Law Reform (Married Women and Tortfeasors) Act 1936* (interpretation);
 - (b) section 3(5) of the *Law Reform (Miscellaneous Provisions) Act 1938* (cause of action surviving death);
 - (c) section 3 of the *Carriage by Air Act 1961* (an Act of Parliament) (civil liability under Convention implemented by that Act) as amended as it has effect in the Island;
 - (d) section 2(4) and 5 of the *Fatal Accidents Act 1961* (which relate to the amendment of the said Acts of 1936 and 1938);
 - (e) [Repealed]²²
 - (f) section 11(2) of the *Mineral Workings (Offshore Installations) (Isle of Man) Act 1974* (civil liability under that Act);
 - (g) [Repealed]²³

Schedule 2²⁴

ENDNOTES

Table of Endnote References

- ¹ Para (aa) inserted by Civil Partnership Act 2011 Sch 14.
- ² Subpara (iii) amended by Civil Partnership Act 2011 Sch 14.
- ³ Para (fa) inserted by Civil Partnership Act 2011 Sch 14.
- ⁴ Subs (4A) inserted by Civil Partnership Act 2011 Sch 14.
- ⁵ Para (a) amended by Civil Partnership Act 2011 Sch 14.
- ⁶ S 1 substituted by High Court Act 1991 Sch 2.
- ⁷ Para (a) amended by Civil Partnership Act 2011 Sch 14.
- ⁸ Para (b) amended by Civil Partnership Act 2011 Sch 14.
- ⁹ Subs (3) amended by SD663/02 with effect from 1/1/2003.
- ¹⁰ Subs (5) amended by Transfer of Deemsters' Functions Act 2003 s 5.
- ¹¹ S 1A inserted by High Court Act 1991 Sch 2.
- ¹² S 2 substituted by High Court Act 1991 Sch 2.
- ¹³ Subs (3) substituted by Civil Partnership Act 2011 Sch 14.
- ¹⁴ Subs (4) amended by Civil Partnership Act 2011 Sch 14.
- ¹⁵ S 3 substituted by High Court Act 1991 Sch 2.
- ¹⁶ S 4 substituted by High Court Act 1991 Sch 2.
- ¹⁷ S 4A inserted by Law Reform Act 1997 s 27 with savings.
- ¹⁸ S 5 amended by High Court Act 1991 Sch 5.
- ¹⁹ Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.
- ²⁰ ADO (whole Act) 1/12/1981 (GC245/81).
- ²¹ Subpara (3) substituted by Statute Law Revision Act 2021 s 17.
- ²² Item(e) repealed by Limitation Act 1984 Sch 4.
- ²³ Item(g) repealed by Statute Law Revision Act 1982 Sch 1.
- ²⁴ Sch 2 repealed by Statute Law Revision Act 1992 Sch 2.