



# Fatal Accidents Act 1976

## 1976 CHAPTER 30

An Act to consolidate the Fatal Accidents Acts.

[22nd July 1976]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Right of action for wrongful act causing death**

- (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) 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 of the deceased,
  - (b) any person who is a parent or grandparent of the deceased,
  - (c) any person who is a child or grandchild of the deceased, and
  - (d) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.
- (4) In deducing any relationship for the purposes of subsection (3)—
  - (a) any relationship by affinity 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, and
  - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.
- (5) Any reference in this Act to injury includes any disease and any impairment of a person's physical or mental condition.

## **2 Persons entitled to bring the action**

- (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 dependants.
- (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 solicitor full particulars of the dependants 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.

## **3 Assessment of damages**

- (1) In the action such damages may be awarded as are proportioned to the injury resulting from the death to the dependants respectively, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the dependants in such shares as may be directed.
- (2) In assessing damages payable to a widow in respect of the death of her husband in an action under this Act there shall not be taken into account the remarriage of the widow or her prospects of remarriage.
- (3) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (4) Money paid into court in satisfaction of a cause of action under this Act may be in one sum without specifying the dependants' shares.

## **4 Assessment of damages: disregard of certain benefits**

- (1) In assessing damages in respect of a person's death in an action under this Act, there shall not be taken into account any insurance money, benefit, pension or gratuity which has been or will or may be paid as a result of the death.
- (2) In this section—
  - " benefit " means benefit under the enactments relating to social security, including enactments in force in Northern Ireland, and any payment by a friendly society or trade union for the relief or maintenance of a member's dependants,
  - " insurance money " includes a return of premiums, and
  - " pension " includes a return of contributions and any payment of a lump sum in respect of a person's employment.

## **5 Contributory negligence**

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 1934 the damages recoverable would be reduced under section 1(1) of the Law Reform (Contributory Negligence) Act 1945, any damages recoverable in an action brought for the benefit of the dependants of that person under this Act shall be reduced to a proportionate extent.

## **6 Consequential amendments and repeals**

- (1) Schedule 1 to this Act contains consequential amendments.
- (2) The enactments in Schedule 2 to this Act are repealed to the extent specified in the third column of that Schedule.

## **7 Short title, etc.**

- (1) This Act may be cited as the Fatal Accidents Act 1976.
- (2) This Act shall come into force on 1st September 1976, but shall not apply to any cause of action arising on a death before it comes into force.
- (3) This Act shall not extend to Scotland or Northern Ireland.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULES

### 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) This paragraph is without prejudice to section 38 of the Interpretation Act 1889 (effect of repeals), and the following provisions of this Schedule are without prejudice to the generality of this paragraph.
- 2 (1) In the following enactments references to the Fatal Accidents Acts, or to the Fatal Accidents Act 1846, or to section 1 of that Act, include references to this Act.
- (2) The said enactments are—
- section 1(5) of the Law Reform (Miscellaneous Provisions) Act 1934 (cause of action surviving death),
  - section 12(1)(a)(iii) of the Coal Mining Subsidence Act 1957 (civil liability under that Act),
  - section 3 of the Carriage by Air Act 1961 (civil liability under Convention implemented by that Act),
  - section 14(2) of the Gas Act 1965 (civil liability under that Act),
  - section 10 of the Animals Act 1971 (civil liability under that Act),
  - section 11(2) of the Mineral Workings (Offshore Installations) Act 1971 (civil liability under that Act),
  - section 2(4) of the Deposit of Poisonous Waste Act 1972 (civil liability under that Act),
  - section 88(4)(a) of the Control of Pollution Act 1974 (civil liability under that Act),
  - section 6(1)(d) of the Industrial Injuries and Diseases (Old Cases) Act 1975,
  - section 30(1) of the Petroleum and Submarine Pipe-Lines Act 1975 (civil liability under that Act).

##### *Limitation Act 1939*

- 3 In sections 2B, 2C and 2D of the Limitation Act 1939 (inserted by the Limitation Act 1975)—
- (a) in section 2D(6) the reference to section 1 of the Fatal Accidents Act 1846 shall be construed as including a reference to section 1(1) of this Act, and

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- (b) any other reference to the Fatal Accidents Act 1846 shall be construed as including a reference to this Act.

*Carriage by Railway Act 1972*

- 4 In section 3 of the Carriage by Railway Act 1972—
- (a) the reference to section 3 of the Fatal Accidents Act 1846 includes a reference to section 2(3) of this Act,
  - (b) the reference to section 2 of the Fatal Accidents Act 1959 includes a reference to section 4 of this Act,
  - (c) other references to the Fatal Accidents Act 1846 include references to this Act.

SCHEDULE 2

Section 6.

REPEALS

Chapter	Short Title	Extent of Repeal
9 & 10 Vict. c. 93.	Fatal Accidents Act 1846.	The whole Act.
27 & 28 Vict. c. 95.	Fatal Accidents Act 1864.	The whole Act.
24 & 25 Geo. 5. c. 41.	Law Reform (Miscellaneous Provisions) Act 1934.	Section 2.
8 & 9 Geo. 6. c. 28.	Law Reform (Contributory Negligence) Act 1945.	Section 1(4). In section 4 the definition of "dependant".
7 & 8 Eliz. 2. c. 65.	Fatal Accidents Act 1959.	The whole of section 1 except for subsection (4). Section 2.
1971 c. 43.	Law Reform (Miscellaneous Provisions) Act 1971.	Part II, but not so as to affect a right to make an application under section 5(2).
1973 c. 38.	Social Security Act 1973.	In Schedule 27 paragraph 20.
1975 c. 54.	Limitation Act 1975.	In Schedule 1 paragraph 1.