



# Law Reform (Miscellaneous Provisions) Act 1934

## 1934 CHAPTER 41

### 1 Effect of death on certain causes of action.

- (1) Subject to the provisions of this section, on the death of any person after the commencement of this Act all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate. Provided that this subsection shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other or to claims under section one hundred' and eighty-nine of the Supreme Court of Judicature (Consolidation) Act, 1925, for damages on the ground of adultery.
- (2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person :—
  - (a) shall not include any exemplary damages ;
  - (b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry ;
  - (c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.
- (3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—
  - (a) proceedings against him in respect of that cause of action were pending at the date of his death ; or
  - (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.
- (4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the

purposes of this Act, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

- (5) The rights conferred by this Act for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of deceased persons by the Fatal Accidents Acts, 1846 to 1908, or the Carriage by Air Act, 1932, and so much of this Act as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the said Acts as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1) of this section.
- (6) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust.
- (7) Subsections (1), (2), (5) and (6) of section twenty-six of the Administration of Estates Act, 1925, shall cease to have effect.

## **2 Amendment of Fatal Accidents Acts, 1846 to 1908.**

- (1) For the purposes of the Fatal Accidents Acts, 1846 to 1908, a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was only related to him illegitimately or in consequence of adoption ; and accordingly in deducing any relationship which under the provisions of those Acts is included within the meaning of the expressions " parent" and " child," any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate offspring of his mother and reputed father or, as the case may be, of his adopters.
- (2) In this section the expression " adopted person " means a person who has been adopted, whether before or after the commencement of this Act, in pursuance of an adoption order made under the Adoption of Children Act, 1926, or the Adoption of Children (Scotland) Act, 1930, or the Adoption of Children Act (Northern Ireland), 1929, and for the purpose of any proceedings under the Fatal Accidents Acts, 1846 to 1908, an extract of, or a certified copy of, any entry in an Adopted Children Register which under subsection (6) of section eleven of the Adoption of Children (Scotland) Act, 1930, or under subsection (5) of section eleven of the Adoption of Children Act (Northern Ireland), 1929, would in Scotland or Northern Ireland, as the case may be, be receivable as evidence of certain facts, shall be receivable as evidence of those facts in England.
- (3) In an action brought under the Fatal Accidents Acts, 1846 to 1908, damages may be awarded in respect of the funeral expenses of the deceased person if such expenses have been incurred by the parties for whose benefit the action is brought.
- (4) This section shall not apply in relation to any action in respect of the death of any person before the commencement of this Act.

## **3 Power of courts of-record to award interest on debts and damages.**

- (1) In any proceedings tried in any court of record for the recovery of any debt or damages, the court may, if it thinks fit, order that there shall be included in the sum for which

judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment :

Provided that nothing in this section—

- (a) shall authorise the giving of interest upon interest ; or
  - (b) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise ; or
  - (c) shall affect the damages recoverable for the dishonour of a bill of exchange.
- (2) Sections twenty-eight and twenty-nine of the Civil Procedure Act, 1833, shall cease to have effect.

#### **4 Short title and extent.**

- (1) This Act may be cited as the Law Reform (Miscellaneous Provisions) Act, 1934.
- (2) This Act shall not extend to Scotland or Northern Ireland.