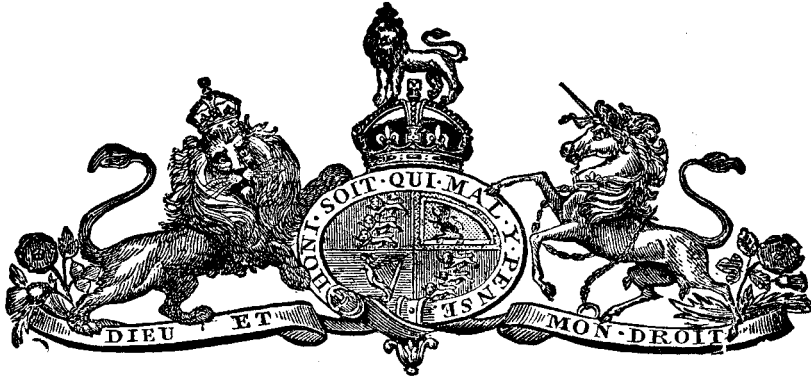


TASMANIA.



1934.

ANNO VICESIMO QUINTO  
 GEORGII V. REGIS.

No. 30.

ANALYSIS.

- |  |  |
|--|--|
| <p>1. Short title.<br/>                 2. Repeal.<br/>                 3. Interpretation.<br/>                 4. Action to be maintainable against any person causing death through neglect, &amp;c., notwithstanding the death of the person injured.<br/>                 5. Action to be for the benefit of certain relations and brought by executor or administrator.</p> | <p>6. Only one action to be and to be commenced within a year.<br/>                 7. Plaintiff to deliver particulars.<br/>                 8. Persons beneficially interested may sue in default of executor, &amp;c.<br/>                 9. Payment into court without division.<br/>                 10. Exclusion of payments by insurers in assessment of damages.</p> |
|--|--|

\*\*\*\*\*  
 AN ACT to consolidate and amend the Law  
 as to Compensating the Families of Persons  
 Killed by Accidents. [27 November, 1934.]

A.D.  
 1934.

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1** This Act may be cited as the *Fatal Accidents Act* 1934. Short title.

**2** The Acts set forth in the schedule are hereby repealed. Repeal.

4d.]

*Fatal Accidents.*

A.D. 1934.

Interpretation.

16 Vict. No. 11, s. 5; 5 Ed. VII. No. 3, s. 6; 9 and 10 Vict. c. 93, s. 5.

Action to be maintainable against any person causing death through neglect, &c., notwithstanding the death of the person injured.

16 Vict. No. 11, s. 1; 9 and 10 Vict. c. 93, s. 1 ("Lord Campbell's Act").

Action to be for the benefit of certain relations and brought by executor or administrator.

16 Vict. No. 11, s. 2; 9 and 10 Vict. c. 93, s. 2.

Only one action to be and to be commenced within a year.

16 Vict. No. 11, s. 3; 9 and 10 Vict. c. 93, s. 3.

Plaintiff to deliver particulars.

16 Vict. No. 11, s. 4; cf. 9 & 10 Vict., c. 93, s. 4.

Persons beneficially interested may sue in default of executor, &c.

3 Ed. VII. No. 8, s. 1; 27 and 28 Vict. c. 95, s. 1.

**3** In this Act, unless the contrary intention appears—

"Child" includes son and daughter, grandson and granddaughter, and stepson and stepdaughter; and also includes an illegitimate child:

"Parent" includes father and mother, grandfather and grandmother, and stepfather and stepmother.

**4** Whenever the death of a person is caused by wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case 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, and although the death shall have been caused under such circumstances as amount in law to a crime.

**5** Every such action shall be for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused, and, subject to this Act, shall be brought by and in the name of the executor or administrator of the person deceased; and in every such action the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the parties aforesaid in such shares as the jury by their verdict shall find and direct.

**6** Not more than one action under this Act shall lie for and in respect of the same subject-matter of complaint, and every such action shall be commenced within twelve months after the death of such deceased person.

**7** In every such action the plaintiff on the record shall be required, together with the statement of claim, to deliver to the defendant or his attorney a full particular of the person or persons for whom and on whose behalf such action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

**8**—(1) If in any case there is no executor or administrator of the person deceased, or, if there is such executor or administrator and no action under this Act is brought within six months after the death of such deceased person by and in the name of his executor or administrator, then and in every such case such action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit such action would have been if it had been brought by and in the name of such executor or administrator.

*Fatal Accidents.*

(2) Every action brought as provided by this section shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of such executor or administrator.

A.D. 1934.

9—(1) In any action brought under the provisions of this Act it shall be sufficient, if the defendant is advised to pay money into court, that he pay it as compensation in one sum to all persons entitled under this Act for his wrongful act, neglect, or default, without specifying the shares into which it is to be divided by the jury.

Payment into court without division.

3 Ed. VII. No. 8, s. 2; 27 and 28 Vict., c. 95, s. 2.

(2) If the sum so paid into court is not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think the sum sufficient, the defendant shall be entitled to the verdict upon that issue.

10 In assessing damages in any action, whether commenced before or after the commencement of this Act, there shall not be taken into account any sum paid or payable on the death of the deceased under any contract of assurance or insurance, whether made before or after the commencement of this Act.

Exclusion of payments by insurers in assessment of damages.

New.

8 Ed. VII. c. 7, s. 1.

**SCHEDULE.**

**ACTS REPEALED.**

Regnal Year and Number.	Title.
16 Vict. No. 11	<i>An Act for Compensating the Families of Persons Killed by Accidents</i>
3 Ed. VII. No. 8	<i>An Act to amend the Act 16 Victoria, No. 11, for Compensating the Families of Persons Killed by Accident</i>

