

CHAPTER 205**LAW REFORM (MISCELLANEOUS PROVISIONS)****ARRANGEMENT OF SECTIONS****SECTION**

1. Short title.
2. Effect of death on certain causes of action.
3. Common employment not to be a defence.

THE LAWS OF BARBADOS

Printed in England by Eyre and Spottiswoode Limited, 2 Serjeants' Inn, London EC4,
by authority of the Government of Barbados

CHAPTER 205

LAW REFORM (MISCELLANEOUS PROVISIONS)

An Act to amend the law as to the effect of death in relation to causes of action and to abolish the defence of common employment; and for purposes incidental to and connected with the foregoing. 1963-43.
1983-32.
1996-20.
1997-11.

[29th April, 1964] Commence-
ment.

1. This Act may be cited as the *Law Reform (Miscellaneous Provisions) Act*. Short title.

2. (1) Subject to this section and without prejudice to the provisions of any other enactment, on the death of any person after the 29th April, 1964, 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. Effect of death on certain causes of action.

(2) *Repealed by 1996-20.* 1983-32.

(3) Where a cause of action survives under subsection (1) for the benefit of the estate of the person referred to in that subsection the damages recoverable for the benefit of the estate

(a) shall not include exemplary damages, and

(b) shall, where the death of the person has been caused by the act or omission that gives rise to the cause of action, be calculated without reference to any loss or gain to his estate consequent on his death.

(4) In the calculation of damages recoverable nothing in subsection (3)(b) shall be construed as permitting the inclusion of any amount for loss of income in respect of any period after the person's death.

(5) Notwithstanding subsection (3)(b) a sum in respect of funeral expenses may be included in the damages recoverable for the benefit of the estate of a deceased person.

(6) *Repealed by 1997-11.*

(7) 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 section, 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.

Cap. 193A. (8) The rights conferred by this section 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 *Accident Compensation (Reform) Act*, or the *Carriage by Air Act, 1932*, of the United Kingdom Parliament¹, as extended to Barbados by the *Carriage by Air (Colonies, Protectorates and Trust Territories) Order, 1953*, and the *Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953*², and so much of this section 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).

(9) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section any

¹This Act, 22 & 23 Geo. 5, c. 36, was replaced by the *Carriage by Air Act, 1961*, but as the latter was brought into force after Independence (see S.I. 1967 No. 809 of the United Kingdom), it appears not to apply to Barbados.

²S.I. 1953 No. 1474 and 1953 No. 1206 of the United Kingdom.

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.

3. (1) It shall not be a defence to an employer, who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was at the time the injuries were caused in common employment with the person injured.

Common
employment
not to be
a defence.

(2) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto (including a contract or agreement entered into before the 29th April, 1964) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) For the purposes of this section, the expression "personal injuries" includes any disease and any impairment of a person's physical or mental condition, and the expression "injured" shall be construed accordingly.

(4) This section shall bind the Crown.

THE LAWS OF BARBADOS