



SAMOA

FATAL ACCIDENTS ACT 1974

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FATAL ACCIDENTS ACT 1974

1974

No.7

AN ACT relating to actions for damages on behalf of the families of persons killed by accident.

[Assent and commencement date: 28 August 1974]

1. Short title – This Act may be cited as the Fatal Accidents Act 1974.

2. Interpretation – In this Act, unless the context otherwise requires:

“child” includes son and daughter and grandson and granddaughter and stepson and stepdaughter, and includes also an illegitimate child;

“parent” includes father and mother and grandfather and grandmother and stepfather and stepmother.

3. Action maintainable where death is caused by wrongful act, neglect or default – Where the death of a person is caused:

- (a) by wrongful act, neglect or default; and
- (b) 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, –

the person who would have been liable if death had not ensued is liable to an action for damages despite the death of the person injured, and although the death was caused under such circumstances as to amount in law to a crime.

4. Action to be for benefit of family – The action is to be for the benefit of the wife, husband, parent, and child of the person whose death has been so caused.

5. Action to be brought in name of executor or administrator – The action is to be brought by and in the name of the executor or administrator of the deceased person, and the Court may award to the parties respectively for whom and for whose benefit the action was brought damages based on the amount of pecuniary benefit or benefit reducible to money value which such parties might reasonably have expected to derive if the death had not occurred.

6. Application of proceeds – (1) The amount so recovered, after deducting the costs not recovered from the defendant, is to be divided or apportioned amongst the before-mentioned parties in such shares or manner as the Court may determine.

(2) The Court may, in its discretion, order that the money so recovered, or any part thereof, be held on trusts, providing for successive interests therein, or as a class fund, and providing for payment to a party, out of such money or out of the income thereof, of periodic payments or of a lump sum.

(3) Where an order is made under subsection (2), it is not necessary to apportion the money under subsection (1).

7. Money paid into Court may be paid in one sum – If the defendant pays money into Court it is sufficient if the defendant pays it in one sum for the benefit of all persons entitled under this

Act as compensation for the defendant's wrongful act, neglect or default without specifying the shares into which it is to be divided.

8. Only one action shall lie – Not more than 1 action shall lie for the same subject-matter of complaint and the action shall be commenced within 3 years after the death of the person deceased.

9. Plaintiff to deliver full particulars of claim made – In an action the plaintiff on the record is required to deliver to the defendant or his solicitor, together with the statement of claim, full particulars of the person or persons for whose benefit the action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

10. Action may be brought by persons beneficially interested – (1) Where in any of the cases provided for by this Act it happens:

- (a) that there is no executor or administrator of the deceased person; or
- (b) that there being such executor or administrator no action as herein-before-mentioned is within 1 year after the death of the deceased person as herein-mentioned brought by and in the name of his or her executor or administrator, –

the action may be brought by and in the name or names of all or of 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 the executor or administrator.

(2) An action so brought is for the benefit of the same person or persons and subject to the same procedure as nearly as may be as if it were brought by and in the name of the executor or administrator.

11. Damages in respect of medical and funeral expenses – In an action brought under this Act damages may be awarded for the medical and funeral expenses of the deceased person if the expenses have been incurred by the parties for whose benefit the action is brought.

12. Repeal – The Deaths by Accident Compensation Act 1952 (NZ) is repealed as part of the law of Samoa.

REVISION NOTES 2008 – 2020/3 March 2021

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division from 2008 to 2020/3 March 2021 under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Insertion of the commencement date (being the date of assent)
- (b) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “shall be” changed to “is” or “are”.
 - (ii) “notwithstanding” changed to “despite”.
 - (iii) Reference to “any” or “every” is substituted with “a” or “an”.
 - (iv) Sections 3, 6(2) and (3), 7, and 10 revised and paragraphed
 - (v) Section heading and arrangement of provisions made consistent.
 - (vi) Numbers in words changed to figures
 - (vii) “hereby” removed.

There were no amendments made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

*This Act is administered by
the Ministry of Justice and Courts Administration.*