

**CHAPTER 289**

**THE LAW REFORM (MISCELLANEOUS PROVISIONS) ACT**

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CHAPTER 289

THE LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

*Commencement:* 3 December, 1953

**An Act to give effect in Uganda to certain provisions of the following Acts of the United Kingdom: the Fatal Accidents Acts, 1846-1908; the Law Reform (Miscellaneous Provisions) Act, 1934; the Law Reform (Married Women and Tortfeasors) Act, 1935; the Administration of Justice (Miscellaneous Provisions) Act, 1938; the Law Reform (Contributory Negligence) Act, 1945; the Crown Proceedings Act, 1947; and the Law Reform (Personal Injuries) Act, 1948.**

PART I—GENERAL

**1. Application of Act**

Parts II and III of this Act shall not apply in the case of persons dying before the commencement of this Act, and Parts IV, V and VI of this Act shall apply only when the cause of action accrues after the commencement of this Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“adopted person” means a person who has been adopted, whether before or after the commencement of this Act, by an adoption order made under the Children Act;

“member of the family” has the same meaning as in the Workers Compensation Act; but for the purposes of this Act, a person shall be deemed to be the father or mother or son or daughter of a deceased person notwithstanding that he or she was only related to the deceased person illegitimately or in consequence of adoption; and, accordingly, in deducing any relationship which is included in this Act within the meaning of the expressions “father”, “mother”, “son” and “daughter”, any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate offspring of his or her mother and reputed father or, as the case may be, of his or her adopters;

“personal representative” means—

- (a) in the case of a deceased person to whom the Succession Act applies either wholly or in part, his or her executor or administrator;
- (b) in the case of any other deceased person, any person who, under law or custom, is responsible for administering the estate of the deceased person.

### **3. Application to Government**

Subject to the Government Proceedings Act or any Act amending or replacing that Act and subject to section 4, this Act shall bind the Government.

### **4. Provisions relating to Uganda Peoples’ Defence Forces**

(1) Nothing done or omitted to be done by a member of the Uganda Peoples’ Defence Forces while on duty as such shall subject either him or her or the Government to liability in tort for causing the death of another person, or for causing personal injury to another person, insofar as the death or personal injury is due to anything suffered by that other person while he or she is a member of the Uganda Peoples’ Defence Forces if—

- (a) at the time when that thing is suffered by that other person, he or she is either on duty as a member of the Uganda Peoples’ Defence Forces or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the Uganda Peoples’ Defence Forces;
- (b) where that other person is a member of the Uganda Peoples’ Defence Forces, the Minister certifies that his or her suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to a gratuity or pension under any enactment relating to the disablement or death of members of the force of which he or she is a member,

but this subsection shall not exempt a member of the forces from liability in tort in any case in which the court is satisfied that the act or omission was not connected with the execution of his or her duties as a member of those forces.

(2) No proceedings in tort shall lie against the Government for death or personal injury due to anything suffered by a member of the Uganda Peoples’ Defence Forces if—

- (a) that thing is suffered by the member in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and
- (b) in the case of a member of the Uganda Peoples' Defence Forces the Minister certifies as mentioned in subsection (1),

nor shall any act or omission of an officer of the Government subject the officer to liability in tort for death or personal injury, insofar as the death or personal injury is due to anything suffered by a member of the Uganda Peoples' Defence Forces being a thing as to which the conditions aforesaid are satisfied.

- (3) A certificate of the Minister—
  - (a) that a person was or was not on any particular occasion on duty as a member of the Uganda Peoples' Defence Forces; or
  - (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the Uganda Peoples' Defence Forces,

shall, for the purposes of this section, be conclusive as to the fact which it certifies.

## PART II—FATAL ACCIDENTS

### **5. Action maintainable when death is caused by negligence**

If the death of any person is caused by any wrongful act, neglect or default of any person, and the act, neglect or default is such as would, if death had not ensued, have entitled the person injured by it to maintain an action and recover damages in respect of it, 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 was caused under such circumstances as amount in law to a felony.

### **6. Beneficiaries of action and person to bring action**

(1) Every action brought under section 5 shall be for the benefit of the members of the family of the person whose death has been so caused, and shall be brought either by and in the name of the executor or administrator of the person deceased or by and in the name or names of all or any of the members, if more than one, of the family of the person deceased.

(2) In every such action, the court may give such damages as it may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit the action is brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the parties in such shares as the court shall find and direct.

(3) Not more than one action shall lie for and in respect of the same subject matter of complaint; and every such action shall be commenced within three years after the death of such deceased person.

#### **7. Payment into court**

Notwithstanding section 6, it shall be sufficient, when the defendant pays money into court, that he or she pays it as a compensation in one sum to all persons entitled under section 6 to damages for his or her wrongful act, neglect or default, without specifying the shares into which it is to be divided by the court; and if the sum is not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the court shall think the same sufficient, the defendant shall be entitled to judgment on that issue.

#### **8. Plaintiff to deliver particulars**

The plaintiff shall deliver to the defendant, together with the plaint, full particulars of the person or persons 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.

#### **9. Exclusion of payments by insurers in assessment of damages**

The court in assessing damages in any action brought under section 5 shall not take into account any sum paid or payable on the death of the deceased under any contract of insurance or assurance, whether made before or after the commencement of this Act.

#### **10. Damages in respect of funeral expenses**

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.

PART III—SURVIVAL OF CAUSES OF ACTION

**11. Effect of death on certain causes of action**

(1) Subject to this section, on the death of any person after the commencement of this Act, all causes of action subsisting against or vested in him or her shall survive against, or, as the case may be, for the benefit of his or her estate; except 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 21 of the Divorce Act for damages on the ground of adultery.

(2) Where a cause of action survives under subsection (1) 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; and
- (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 or her estate consequent on his or her 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 the deceased person in respect of that action were pending at the date of his or her death; or
- (b) the cause of action arose not earlier than six months before his or her death and proceedings are taken in respect of it not later than six months after his or her 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 the person before his or her death such cause of action in

respect of that act or omission as would have subsisted if he or she had died after the damage was suffered.

(5) The rights conferred by this Part for the benefit of the estate of deceased persons shall be in addition to and not in derogation of any rights conferred on the members of the family of deceased persons by Part II of this Act, and so much of this Part as relates to a cause of action against the estates of deceased persons shall apply in relation to causes of action under Part II of this Act as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1).

(6) If an estate against which proceedings are maintainable by virtue of this section is insolvent, any liability in respect of the cause of action in relation to 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) Subject to this Act, the personal representative of a deceased person shall have the right to prosecute or defend any cause of action which has by virtue of this section survived for the benefit of or against the estate of the deceased person.

#### PART IV—JOINT TORTFEASORS

### **12. Proceedings against, and contributions between, joint and several tortfeasors**

(1) Where damage is suffered by any person as a result of a tort (whether a crime or not)—

- (a) judgment recovered against any tortfeasors liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tortfeasor in respect of the same damage;
- (b) if more than one action is brought in respect of that damage by and on behalf of the person by whom it was suffered, or for the benefit of the estate, or of a member of the family of that person, against tortfeasors liable in respect of the damage (whether as joint tortfeasors or otherwise), the sums recoverable under the judgments given in those actions by way of damages shall not in



the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of opinion that there was reasonable ground for bringing the action;

- (c) any tortfeasor liable in respect of that damage may recover contribution from any other tortfeasor who is, or would if sued have been, liable in respect of the same damage, whether as a joint tortfeasor or otherwise, so, however, that no person shall be entitled to recover contribution under this section from any person entitled to be indemnified by him or her in respect of the liability in respect of which the contribution is sought.

(2) In any proceedings for contribution under this section, the amount of the contribution recoverable from any person shall be such as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage; and the court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity.

(3) The reference in this section to "the judgment first given" shall, in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed and, in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.

- (4) Nothing in this section shall—
  - (a) affect any criminal proceedings against any person in respect of any wrongful act; or
  - (b) render enforceable any agreement for indemnity which would not have been enforceable if this section had not been passed.

#### PART V—CONTRIBUTORY NEGLIGENCE

### 13. Apportionment of liability in case of contributory negligence

(1) Where any person suffers damage as the result partly of his or her own fault and partly of the fault of any other person, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering

the damage, but the damages recoverable in respect of the claim shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage; but—

- (a) this subsection shall not operate to defeat any defence arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of subsection (1) subject to the reduction mentioned there, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Part IV of this Act shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (1) in respect of the damage suffered by any person.

(4) Where any person dies as the result partly of his or her own fault and partly of the fault of any other person, and accordingly if an action were brought for the benefit of the estate under Part III of this Act, the damages recoverable would be reduced under subsection (1), any damages recoverable in an action brought for the benefit of the members of the family of that person under Part II of this Act shall be reduced to a proportionate extent.

(5) Where in any case to which subsection (1) applies, one of the persons at fault avoids liability to any other such person or his or her personal representative by pleading any enactment limiting the time within which proceedings may be taken, he or she shall not be entitled to recover any damages or contributions from that other person or representative by virtue of that subsection.

(6) Article 21 of the convention contained in the First Schedule to the Carriage by Air Act, 1961, of the United Kingdom, which empowers a court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person, shall have effect subject to this section.

(7) For the purposes of this section, “fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this Act, give rise to the defence of contributory negligence.

**14. Provisions as to workers and employers**

(1) Where, within the time limited for the taking of proceedings under the Workers Compensation Act, an action is brought to recover damages independently of that Act in respect of an injury or disease giving rise to a claim for compensation under that Act, and it is determined in that action that

- (a) damages are recoverable independently of the Workers Compensation Act subject to such reduction as is mentioned in section 13(1); and
- (b) the employer would have been liable to pay compensation under the Workers Compensation Act,

section 17(4) of the Workers Compensation Act, which enables the court, on the dismissal of an action to recover damages independently of that Act, to assess and award compensation under that Act, shall apply in all respects as if the action had been dismissed, and, if the claimant chooses to have compensation assessed and awarded in accordance with section 17(4) of the Workers Compensation Act, no damages shall be recoverable in the action.

(2) Where a worker or his or her personal representative or dependent has recovered compensation under the Workers Compensation Act, in respect of an injury caused under circumstances which would give a right to recover reduced damages in respect of the injury by virtue of section 13 of this Act from some person other than the employer, hereafter referred to as “third party”, any right conferred on any person called on to pay any indemnity under section 22 of the Workers Compensation Act, to be indemnified by the third party shall be limited to a right to be indemnified in respect of such part only of the sum paid or payable by that person as bears to the total sum so paid or payable the same proportion as the reduced damages bear to the total damages which would have been recoverable if the worker had not been at fault.

(3) For the purposes of this section, “dependent”, “employer” and “worker” have the same meanings as in the Workers Compensation Act.

PART VI—ABOLITION OF DOCTRINE OF  
COMMON EMPLOYMENT

**15. Common employment**

(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 he or she employs, that that person was at the time the injuries were caused in common employment with the person injured.

(2) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral to it, including a contract or agreement entered into before the commencement of this Act shall be void insofar 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 or her.

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**History:** Cap. 74 (1964 Revision); Ordinance. 46/1958; Act 11/1967, s. 48; Cap. 79 (Revised Edition, 2000)

**Cross References**

Carriage by Air Act, 1961, of the United Kingdom, 9 & 10 Eliz. 2, c. 27  
Children Act, Cap. 62  
Divorce Act, Cap. 144  
Government Proceedings Act, Cap. 287  
Succession Act, Cap. 268  
Workers Compensation Act, Cap. 233

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