

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER C25

CAUSES OF ACTION (SURVIVAL) ACT

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CAUSES OF ACTION (SURVIVAL) ACT

Effect of death on certain causes of action

1. (1) Subject to the provisions of this section, on the death of any person after 29th October, 1951 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, but 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.

(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; 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 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 6 months before his death and proceedings are taken in respect thereof not later than 6 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 Act or the Carriage by Air Act, 1961 as extended to Anguilla by the Carriage by Air (Overseas Territories) Order, 1967 or by the Carriage by Air (Application of Provisions) (Overseas Territories) Order 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 those Acts as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1).

(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.

Citation

2. This Act may be cited as the Causes of Action (Survival) Act, Revised Statutes of Anguilla, Chapter C25.

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