

CONSOLIDATION OF FATAL ACCIDENTS ACT
R.S.N.W.T. 1988,c.F-3

(Current to: March 25, 2011)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:
S.N.W.T. 1998,c.17

AS AMENDED BY NUNAVUT STATUTES:
S.Nu. 2010,c.14,s.6
s.6 in force June 10, 2010

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at www.justice.gov.nu.ca but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in-2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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FATAL ACCIDENTS ACT

Definitions

1. In this Act,

"administrator" means an administrator appointed by the Court; (*administrateur*)

"child" includes a son, daughter, grandson, grand-daughter, stepson, stepdaughter, adopted child and a person for whom the deceased stood in the place of a parent; (*enfant*)

"Court" means the Nunavut Court of Justice; (*tribunal*)

"judge" means a judge of the Nunavut Court of Justice; (*juge*)

"parent" includes a father, mother, grandfather, grandmother, stepfather, stepmother, a person who adopted a child and a person who stood in the place of a parent for the deceased; (*parent*)

"spouse" has the meaning assigned to it by section 1 of the *Family Law Act*. (*conjoint*)
S.N.W.T. 1998,c.17,s.12; S.Nu. 2010,c.14,s.6.

Liability for damages

2. Where the death of a person is caused by a wrongful act, neglect or default that, if death had not resulted, would have entitled the person injured to maintain an action and recover damages in respect of the injury, the person who would have been liable if death had not resulted is liable to an action for damages, notwithstanding the death of the person injured and although the death was caused under circumstances amounting in law to culpable homicide.

Action

- 3.** (1) An action brought under this Act
- (a) shall be for the benefit of the spouse, parent or child of the person whose death was caused by a wrongful act, neglect or default; and
 - (b) subject to section 8, must be brought by and in the name of the executor or administrator of the deceased.

Award of damages

(2) In an action brought under this Act, a judge may award damages that are proportional to the injury resulting from the death of the deceased to the persons for whom and for whose benefit the action is brought.

Division of damages

(3) The damages awarded under subsection (2) shall, after deduction of the costs not recovered from the defendant, be divided among the persons for whom and for whose benefit the action is brought in the shares that may be determined at the trial.

Additional damages

- 4.** (1) In an action brought under this Act a judge may, in addition to damages awarded under subsection 3(2), award damages in respect of
- (a) medical or hospital expenses of the person injured that would have been recoverable as damages by that person if he or she had not died; and
 - (b) the funeral expenses of the deceased incurred by a person for whom or for whose benefit the action is brought.

Insurance payments

(2) In assessing damages, a judge shall not take into account any sum paid or payable on the death of the deceased or any future premiums payable under any contract of assurance or insurance.

Payment into court

5. The defendant may pay into the Court one sum of money as compensation for his or her wrongful act, neglect or default, to all persons entitled to compensation, without specifying the shares into which it is to be divided. S.Nu. 2010,c.14,s.6(3).

Single action

6. (1) Only one action lies for and in respect of the same subject-matter of complaint.

Limitation period

(2) An action under this Act may not be brought after two years from the death of the deceased.

Particulars in statement of claim

7. (1) The plaintiff shall set out in the statement of claim or deliver with the statement of claim full particulars of the persons for whom and on whose behalf the action is brought.

Affidavit by plaintiff

(2) The plaintiff shall file with the statement of claim an affidavit by the plaintiff stating that to the best of his or her knowledge, information and belief, the persons on whose behalf the action is brought, as set out in the statement of claim or the particulars delivered in accordance with subsection (1), are the only persons entitled or who claim to be entitled to the benefit of the action.

Exception

(3) The judge before whom the action is brought may, if the judge is of the opinion that there is sufficient reason for doing so, dispense with the filing of the affidavit under subsection (1).

Action by persons beneficially interested

- 8.** (1) An action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by an executor or administrator where
- (a) there is no executor or administrator; or
 - (b) no action is brought by the executor or administrator within six months after the death of the deceased.

Procedure

- (2) An action brought under subsection (1) shall be
- (a) for the benefit of the same persons, and
 - (b) subject to the same regulations and procedure, with such modifications as the circumstances require,
- as if the action were brought by an executor or administrator.

Costs and apportionment of compensation

- 9.** A judge may apportion compensation that has not been otherwise apportioned among the persons entitled and may provide for the costs of the application.

Actions by several claimants

- 10.** Where actions are brought by or for the benefit of two or more persons claiming to be entitled as spouse, parent or child of the deceased, the judge before whom the actions or either of them are pending may make an order that the judge considers just for the determination of
- (a) the liability of the defendant; and
 - (b) all questions as to the persons entitled under this Act to the damages that may be recovered.

Application to judge respecting settlement

- 11.** (1) Where
- (a) an action is maintainable under this Act in whole or in part for the benefit of a minor, and
 - (b) the executor or administrator agrees, either before or after the commencement of an action, on a settlement of the claim or action,
- the executor or administrator or the person against whom the claim or action is made or brought, may, on 10 days notice to the opposite party, apply to a judge for an order confirming the settlement.

Effect of confirmation of settlement

- (2) On an application under subsection (1), the judge may confirm or disallow the settlement and if the settlement is confirmed, the person against whom the claim or action is made or brought shall be discharged from all further claims.

Payment into court

- (3) On an application under subsection (1), the judge may order all or part of the money to be paid into the Court or otherwise apportioned and distributed as the judge considers best in the interests of those entitled to it. S.Nu. 2010,c.14,s.6(3).

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