

The Estates Proceedings Law 1974

(Law 3 of 1974)

MEMORANDUM OF OBJECTS AND REASONS

Under the common law of England (which also applies in the Cayman Islands) certain classes of causes of action abated with the death of the person against whom or by whom they could be brought. This was recognised as a source of frequent injustice and was remedied in England by the passing of the Law Reform (Miscellaneous Provisions) Act, 1934, which enacted that on the death of a person all causes of action (with certain exceptions) subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate.

It is now sought to introduce a similar law into the Islands.

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CAYMAN ISLANDS

LAW NO. 3 of 1974

I assent

K.R. Crook

Governor

6th June, 1974

A LAW TO MAKE PROVISION FOR THE PRESER-
VATION OF CERTAIN CAUSES OF ACTION
AGAINST THE ESTATES OF DECEASED PERSONS
AND ON BEHALF OF SUCH ESTATES.

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Estates Proceedings
Law, 1974 and shall come into operation on a day to be
appointed by the Governor by Government Notice
published in the Cayman Islands.

Short
title and
commence-
ment.

2. Subject to the provisions of this Law, on the death
of any person after the commencement of this Law all
causes of action subsisting against or vested in him
immediately before his death shall survive against or,
as the case may be, for the benefit of his estate.

Survival
of causes
of action
after
death.

3. Section 2 shall not apply to the following causes of
action -

- (a) defamation;
- (b) seduction;
- (c) inducing one spouse to leave or remain apart
from the other;
- (d) adultery; or
- (e) breach of promise to marry.

Causes of
action
which do
not
survive.

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Certain heads of damages do not survive.	4. Where by virtue of section 2 a cause of action survives for the benefit of the estate of deceased person, the damages recoverable shall not include - (a) exemplary damages; or (b) damages calculated with reference to the loss or gain to the estate of such person consequent upon his death other than in respect of funeral expenses.
Limitation in respect of actions in tort.	5. No proceedings shall be maintainable in respect of a cause of action in tort by virtue of section 2 unless - (a) proceedings were pending at the date of the death; or (b) the cause of action arose not earlier than one year before death and suit is filed in court in respect thereof not later than one year after the personal representative or representatives took out representation.
Presumption in certain cases, of causes of action arising prior to death.	6. 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 purpose of this Law, 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.
Saving of certain Laws.	7. The rights conferred by this Law for the benefit of 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 Law or Carriage by Air Act, 1932 of the Imperial Parliament, as applied to the Cayman Islands and so much of this Law as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the aforesaid Law and aforesaid Act as it applies in relation to other causes of action not expressly excepted from the operation of section 2.
Cap. 54 22 & 23 Geo. V c. 36.	
Proof in insolvency of an estate.	8. In the event of the insolvency of an estate against which proceedings are maintainable by virtue of section 2, any liability in respect of the cause of action in

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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.

Passed the Legislative Assembly this 18th day of March, 1974

K.R. Crook
President

Sybil McLaughlin
Clerk of the Legislative Assembly.

Government Notice No. 104 of 1974

Date of Operation: 11th June, 1974