

SCHEDULE 6

Section 68.

DAMAGES FOR PERSONAL INJURIES ETC.—NORTHERN IRELAND

Abolition of actions for enticement, seduction and harbouring of child

- 1 No person shall be liable in tort under the law of Northern Ireland—
- (a) to a parent (or person standing in the place of a parent) on the ground only of his having deprived the parent (or other person) of the services of his or her child by raping, seducing or enticing that child ; or
 - (b) to any other person for harbouring the child of that other person.

Fatal accidents

- 2 The following paragraph shall be substituted for paragraph (2) of Article 2 of the Fatal Accidents (Northern Ireland) Order 1977—

“(2) In this Order " dependant " means—

- (a) the wife or husband or former wife or husband of the deceased ;
- (b) any person who—
 - (i) was living with the deceased in the same household immediately before the date of the death ; and
 - (ii) had been living with the deceased in the same household for at least two years before that date ; and
 - (iii) was living during the whole of that period as the husband or wife of the deceased ;
- (c) any parent or other ascendant of the deceased ;
- (d) any person who was treated by the deceased as his parent;
- (e) a child or other descendant of the deceased ;
- (f) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage ;
- (g) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased ;

and " the deceased " has the meaning given by Article 3(2).

(2A) The reference to the former wife or husband of the deceased in paragraph (2) (a) includes a reference to a person whose marriage to the deceased has been annulled or declared void as well as a person whose marriage to the deceased has been dissolved.”.

- 3 In paragraph (2) of Article 3 of that Order for the word " Every " there shall be substituted the words " Subject to Article 3A(2), every ".

- 4 The following shall be inserted after that Article—

Bereavement

“3A (1) An action under this Order may consist of or include a claim for damages for bereavement.

(2) A claim for damages for bereavement shall only be for the benefit—

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- (a) of the wife or husband of the deceased ; and
 - (b) where the deceased was a minor who was never married—
 - (i) of his parents, if he was legitimate ; and
 - (ii) of his mother, if he was illegitimate.
 - (3) Subject to paragraph (5), the sum to be awarded as damages under this Article shall be £3,500.
 - (4) Where the claim is a claim for damages under this Article for the benefit of both the parents of the deceased, the sum awarded shall be divided equally between them (subject to any deduction falling to be made in respect of costs not recovered from the defendant).
 - (5) The Lord Chancellor may by order made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, amend this Article by varying the sum for the time being specified in paragraph (3).”
- 5 In Article 4 of that Order—
- (a) in paragraph (2), for the word " dependants " there shall be substituted the words " persons for whose benefit an executor or administrator could have brought it "; and
 - (b) in paragraph (4), for the word " dependants " there shall be substituted the word " persons ".
- 6 (1) The following paragraphs shall be substituted for paragraph (1) of Article 5—
- “(1) In the action such damages, other than damages for bereavement, may be awarded as are proportioned to the injury resulting from the death to the dependants respectively.
- (1A) After deducting the costs not recovered from the defendant any amount recovered otherwise than as damages for bereavement shall be divided among the dependants in such shares as may be directed.”.
- (2) In paragraph (2), for " (1) " there shall be substituted " (1A) ".
- (3) In paragraph (3), for the words " In assessing damages payable to a widow in respect of the death of her husband in an action under this Order " there shall be substituted the words " In an action under this Order where there fall to be assessed damages payable to a widow in respect of the death of her husband ".
- (4) The following paragraph shall be inserted after that paragraph—
- “(3A) In an action under this Order where there fall to be assessed damages payable to a person who is a dependant by virtue of Article 2(2)(b) in respect of the death of the person with whom the dependant was living as husband or wife there shall be taken into account (together with any other matter that appears to the court to be relevant to the action) the fact that the dependant had no enforceable right to financial support by the deceased as a result of their living together.”.
- (5) In paragraph (5), for the words " the dependants' shares" there shall be substituted the words " any person's share ".
- 7 The following shall be substituted for Article 6—

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Assessment of damages: disregard of benefits

“6 (1) In assessing damages in respect of a person's death in an action under this Order, benefits which have accrued or will or may accrue to any person from his estate or otherwise as a result of his death shall be disregarded.”.

8 In Article 7, the words " brought for the benefit of the dependants of that person " shall be omitted.

Exclusion of section 14 of Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937

9 (1) The following subsection shall be inserted after section 14(1) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937 (actions to survive death)—

“(1A) The right of a person to claim under Article 3A of the Fatal Accidents (Northern Ireland) Order 1977 (bereavement) shall not survive for the benefit of his estate on his death.”.

(2) The following paragraph shall be substituted for subsection (2)(a) —

“(a) shall not include—

- (i) any exemplary damages ;
- (ii) any damages for loss of income in respect of any period after that person's death ;”.

Orders for provisional damages for personal injury

10 (1) This paragraph applies to an action under the law of Northern Ireland for damages for personal injuries in which there is proved or admitted to be a chance that at some definite or indefinite time in the future the injured person will, as a result of the act or omission which gave rise to the cause of action, develop some serious disease or suffer some serious deterioration in his physical or mental condition.

(2) Subject to sub-paragraph (4) below, as regards any action for damages to which this paragraph applies in which a judgment is given in the High Court, provision may be made by rules of court for enabling the court, in such circumstances as may be prescribed, to award the injured person—

- (a) damages assessed on the assumption that the injured person will not develop the disease or suffer deterioration in his condition ; and
- (b) further damages at a future date if he develops the disease or suffers the deterioration.

(3) Any rules made by virtue of this paragraph may include such incidental, supplementary and consequential provisions as the rulemaking authority may consider necessary or expedient

(4) Nothing in this paragraph shall be construed—

- (a) as affecting the exercise of any power relating to costs, including any power to make rules of court relating to costs ; or
- (b) as prejudicing any duty of the court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from any such duty.

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- (5) This paragraph shall have effect in relation to county courts in Northern Ireland as it has effect in relation to the High Court as if references in it to rules of court included references to county court rules.
- (6) In this paragraph " personal injuries" includes any disease and any impairment of a person's physical or mental condition.