

The Fatal Accidents Act

being

Chapter F-11 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan*, 1983, c.80; 1984-85-86, c.16; [1989-90, c.54](#); [1993, c.8](#); [2001, c.50](#); [2004, c.L-16.1](#) and [9](#); and [2007, c.25](#).

NOTE:

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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Editorial Appendix

CHAPTER F-11

An Act respecting Compensation for Fatal Accidents

Short title

1 This Act may be cited as *The Fatal Accidents Act*.

Interpretation

2 In this Act:

- (a) “**child**” includes son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted child, and a person to whom the deceased stood *in loco parentis*;
- (b) “**parent**” includes father, mother, grandfather, grandmother, stepfather, stepmother, a person who adopted a child, and a person who stood *in loco parentis* to the deceased;
- (c) “**administrator**” means an administrator appointed by the courts of Saskatchewan;
- (d) “**spouse**” means:
 - (i) the wife or husband of the deceased; or
 - (ii) a person with whom the deceased cohabited as spouses:
 - (A) continuously for a period of not less than two years; or
 - (B) in a relationship of some permanence, if they are the parents of a child.

R.S.S. 1978, c.F-11, s.2; 1993, c.8, s.3; 2001, c.50, s.4.

Liability for damages

3(1) Where the death of a person has been caused by such wrongful act, neglect or default as, if death had not ensued, would have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued 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.

(2) The action shall be brought in the Court of Queen’s Bench.

R.S.S. 1978, c.F-11, s.3.

Who benefits by action

4(1) Every action shall be for the benefit of the spouse, parent and child of the person whose death was so caused, and except as provided by section 8 shall be brought by and in the name of the executor or administrator of the deceased, and in every action such damages may be awarded as are proportioned to the injury resulting from the death to the persons 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 before mentioned persons in such shares as may be determined at the trial.

(2) In an action brought under this Act damages may also be awarded in respect of:

- (a) any medical or hospital expenses of the person injured, consequent upon the injury, that would have been recoverable as damages by the person injured if death had not ensued;
- (b) the funeral expenses of the deceased person;
- (c) the cost of grief counselling;
- (d) loss of earnings for the period in which the persons by whom or for whose benefit the action is brought are unable to work because of the death; and
- (e) any other out-of-pocket expenses reasonably incurred as a consequence of the death;

if those expenses have been incurred by any of the parties for whom and for whose benefit the action is brought.

(3) In assessing the damages in the action there shall not be taken 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 whenever effected.

R.S.S. 1978, c.F-11, s.4; 1993, c.8, s.4.

Damages for bereavement for death on or after August 1, 2004

4.1(1) In this section:

- (a) **“child”** does not include a grandchild;
- (b) **“parent”** does not include a grandparent.

(2) If the court finds the defendant liable in an action pursuant to this Act with respect to a death on or after August 1, 2004, the court, without reference to any other damages that may be awarded and without evidence of damage, shall award damages for grief and loss of the guidance, care and companionship of the deceased person of:

- (a) subject to subsection (3), \$60,000 to the spouse of the deceased person;
- (b) \$30,000 to each parent of the deceased person; and
- (c) \$30,000 to each child of the deceased person.

(3) The court shall not award damages pursuant to clause (2)(a) to a spouse who was living separate and apart from the deceased person at the time of the deceased's death.

2004, c.9, s.2; 2007, c.25, s.3.

Payment into court

5 The defendant may pay into court one sum of money as compensation for his wrongful act, neglect or default, to all persons entitled to such compensation without specifying the shares into which it is to be divided.

R.S.S. 1978, c.F-11, s.5.

Limitations

6(1) Not more than one action lies with respect to the same subject matter of complaint.

(2) For the purposes of applying *The Limitations Act* to an action pursuant to this Act, the day on which the act or omission on which the claim is based takes place is the date of death of the deceased person.

2004, c.L-16.1, s.50.

Particulars of beneficiaries

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

(2) There shall be filed with the statement of claim an affidavit by the plaintiff in which he shall state that to the best of his knowledge, information and belief the persons on whose behalf the action is brought, as set forth in the statement of claim or the particulars delivered, are the only persons entitled or who claim to be entitled to the benefit thereof.

(3) The court in which the action is brought or a judge thereof, if of opinion that there is a sufficient reason for doing so, may dispense with the filing of the affidavit.

R.S.S. 1978, c.F-11, s.7.

Action by persons beneficially interested

8(1) If there is no executor or administrator of the deceased, or, there being an executor or administrator, no such action is, within six months after the death of the deceased, brought by the executor or administrator, the 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 such executor or administrator.

(2) Every action so brought shall be for the benefit of the same persons, and shall be subject to the same rules and procedure, as nearly as may be, as if it were brought by such executor or administrator.

R.S.S. 1978, c.F-11, s.8; 1989-90, c.54, s.4.

Apportionment

9 Where the compensation has not been otherwise apportioned a judge in chambers may apportion it among the persons entitled, and may provide for the costs of the application.

R.S.S. 1978, c.F-11, s.9.

Actions by rival 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 court in which the actions or any of them are pending may make such order as it may deem just for the determination not only of the question of the liability of the defendant but of all questions as to the persons entitled under this Act to the damages, if any, that may be recovered.

R.S.S. 1978, c.F-11, s.10; 1993, c.8, s.6.

11 Repealed. 1983, c.80, s.10.

Action may be brought against estate of deceased person

12(1) Where a person dies who would have been liable to an action for damages under this Act had he continued to live, then, whether he died before or after or at the same time as the person whose death was caused by wrongful act, neglect or default, an action may be brought and maintained, or, if pending, may be continued, against the executor or administrator of the deceased person, and the damages and costs recovered in the action shall be payable out of the estate of such deceased in like order of administration as the simple contract debts of the deceased.

(2) If there is no executor or administrator of the deceased person appointed in the province within three months after his death, the court or a judge may, on the application of any party intending to bring or continue an action under this section, and on such notice to such other parties either specially or generally by public advertisement as the court or judge may direct, appoint a representative of the estate of the deceased person for all purposes of the intended or pending action and to act as defendant therein; and the action brought or continued against the representative so appointed and all proceedings therein shall bind the estate of the deceased in all respects as if a duly constituted executor or administrator of the deceased were a party to the action.

(3) No application shall be made pursuant to subsection (2) after the expiration of two years from the date of death of the deceased person.

R.S.S. 1978, c.F-11, s.12; 1993, c.8, s.7; 2004, c.L-16.1, s.50.

Section 8 of *The Fatal Accidents Amendment Act, 1993*, being chapter 8 of the *Statutes of Saskatchewan, 1993* provides for transitional application of this Act as follows:

“(1) Subject to subsection (2), the amendments to *The Fatal Accidents Act* being enacted by this Act apply to all deaths, whether they occur before or after the coming into force of this Act.

“(2) The amendments to *The Fatal Accidents Act* being enacted by this Act do not apply to actions:

- (a) in which judgment is given before the coming into force of this Act; or
- (b) that are settled before the coming into force of this Act.”