

PROJET DE LOI

ENTITLED

The Fatal Accidents (Guernsey) Law, 1960 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XVIII, p. 281; as amended by the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965 (Ordres en Conseil Vol. XX, p. 95); the Social Insurance (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 292). This Law is applied, with modifications, to the Island of Alderney and the Island of Sark by the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965 (*supra*). See also the States Water Supply (Amendment) (Guernsey) Law, 1991 (No. VII of 1991, Ordres en Conseil Vol. XXXIII, p. 133); the Electricity (Guernsey) Law, 2001 (No. XIII of 2001, Ordres en Conseil Vol. XLI, p. 343); the Telecommunications (Bailiwick of Guernsey) Law, 2001 (No. XIV of 2001, Ordres en Conseil Vol. XLI, p. 452); the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (No. VIII of 2004, Ordres en Conseil Vol. XLIV(2), p. 1); the Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2009 (No. X of 2010).

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ARRANGEMENT OF SECTIONS

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THE STATES, in pursuance of their Resolution of the thirtieth day of December, nineteen hundred and fifty-nine, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

Interpretation.

1. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"adopted" means adopted in pursuance of an adoption order made under the Adoption (Guernsey) Law, 1960,

"benefit" means benefit [[under or by virtue of the Social Insurance (Guernsey) Law, 1978],] and any payment by a friendly society or trade union for the relief or maintenance of a member's dependants,

"insurance money" includes a return of premiums,

"pension" includes a return of contributions and any payment of a lump sum in respect of a person's employment, and

"the principal Law" means the Law entitled "Loi relative à la Compensation qui pourra être accordée aux Familles de Personnes dont la Mort aura été causée par Accident" registered on the twenty-eighth day of December, nineteen hundred.

(2) Any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, extended or

applied by or under any other enactment including this Law.

NOTES

In section 1,

the comma in square brackets in the definition of the expression "benefit" in subsection (1) was inserted by the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, section 3(1)(a), with effect from 9th November, 1965;

the words in square brackets within the square brackets in the definition of the expression "benefit" in subsection (1) were substituted by the Social Insurance (Guernsey) Law, 1978, section 120, Fifth Schedule, with effect from 1st January, 1979.¹

The Law, other than section five, section six and section seven thereof, is applied to the Island of Alderney and the Island of Sark by the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, section 1, with effect from 9th November, 1965.

The following case has referred to this Law:

Vidamour v. Hood (1993) 16.GLJ.68.

In accordance with the provisions of the States Water Supply (Amendment) (Guernsey) Law, 1991, section 1(4), with effect from 1st July, 2004, for the purposes of the provisions of this Law, any liability of the States' Trading Supervisory Board for water damage under section 1(1) of the 1991 Law shall be deemed to have arisen by reason of the Board's negligence; and the provisions of this Law shall apply accordingly.

In accordance with the provisions of the Electricity (Guernsey) Law, 2001, section 9, Schedule 1, paragraph 4(4), with effect from 1st February, 2002, for the purposes of the provisions of this Law, any liability of a licensee to pay compensation under the said paragraph 4 shall be deemed to have arisen by reason of its negligence; and the provisions of this Law shall apply accordingly.

In accordance with the provisions of the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 9, Schedule 1, paragraph 4(4), with effect from 1st October, 2001, for the purposes of the provisions of this Law, any liability of a licensee to pay compensation under the said paragraph 4 shall be deemed to have arisen by reason of its negligence; and the provisions of this Law shall apply accordingly.

In accordance with the provisions of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002, section 194, Schedule 7, Part II, paragraph 6(2), with effect from 1st July, 2013, the reference in Article 7(2) of the Convention on Limitation of Liability for Maritime Claims 1976, as set out in Part I of the said Schedule 7, to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under this Law.

In accordance with the provisions of the Evidence in Civil Proceedings (Guernsey and Alderney) Law, 2009, section 16, with effect from 28th

April, 2011, in an action for personal injury brought by virtue of this Law, the actuarial tables (together with explanatory notes) for use in personal injury and fatal accident cases issued from time to time by the UK Government Actuary's Department are admissible in evidence for the purpose of assessing, in such an action, the sum to be awarded as general damages for future pecuniary loss.

In its application to the Island of Alderney and the Island of Sark, section 1 is modified in accordance with the provisions of paragraph (a) of the proviso to section 1 of the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, with effect from 9th November, 1965.

Extension of classes of dependants.

2. (1) The persons for whose benefit or by whom an action may be brought under the principal Law shall include any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased person.

(2) In deducing any relationship for the purposes of the principal Law and this Law –

- (a) an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person, and, subject thereto,
- (b) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the stepchild of any person as his child, and
- (c) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.

Exclusion of certain benefits in assessment of damages.

3. In assessing damages in respect of a person's death in any action under the principal Law [or under the Carriage by Air (Guernsey) Order, 1935,] there shall not be taken into account any insurance money, benefit, pension or gratuity which has been or will or may be paid as a result of the death.

NOTES

In section 3, the words in square brackets were inserted by the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, section 3(1)(b), with effect from 9th November, 1965.

In its application to the Island of Alderney and the Island of Sark, section 3 is modified in accordance with the provisions of the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, section 3(3), with effect from 9th November, 1965.

In accordance with the provisions of the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, section 3(2), with effect from 18th September, 1965, the provisions of this section shall apply to actions under the Carriage by Air (Guernsey) Order, 1935, brought in respect of deaths whether occurring before or after the commencement of the 1965 Law but occurring after the commencement of this Law.

Inclusion of funeral expenses in assessment of damages.

4. In any action brought under the principal Law damages may be awarded in respect of the funeral expenses of the deceased person if such expenses have been incurred by the parties for whose benefit the action is brought.

Repeals.

5. The enactments specified in the first column of the Schedule to this Law are hereby repealed to the extent specified in the third column of that Schedule.

Amendment.

6. In the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1936, for the figure and brackets "(2)" immediately after subsection (6) of section 1 of that Law there is hereby substituted the figure "2".

Application.

7. This Law shall apply only to actions brought in respect of deaths occurring after the commencement of this Law.

Citation.

8. This Law may be cited as the Fatal Accidents (Guernsey) Law, 1960, and this Law and the principal Law may be cited together as the Fatal Accidents

(Guernsey) Laws, 1900 and 1960.

NOTE

The Law received Royal Sanction on 30th November, 1960 and was registered on the Records of the Island of Guernsey and came into force on 16th January, 1961.

SCHEDULE

Section five*Enactments Repealed*

<i>Enactment</i>	<i>Date of Registration</i>	<i>Extent of repeal</i>
The Law entitled "Loi relative à la Compensation qui pourra être accordée aux Familles de Personnes dont la Mort aura été causée par Accident".	28 th December, 1900.	In Article 6 the words and brackets "le Beau-père et la Belle-mère ("step-father" and "stepmother")" and "le Beau-fils et la Belle-fille ("step-son" and "step-daughter")".
The Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1936.	14 th November, 1936.	Section two.

¹ Part of these words was previously substituted by the Fatal Accidents and Law Reform (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1965, section 3(1)(a), with effect from 9th November, 1965.