

XV.
1936

ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

Loi relative à la Réforme de Diverses Dispositions de la Loi (1936).

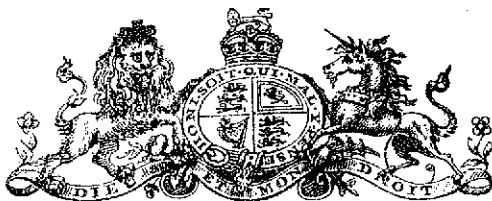
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1936.

ORDRE EN CONSEIL.



A LA COUR ROYALE DE L'ÎLE DE GUERNÉSEY

Le quatorze novembre mil neuf cent trente-six, par devant Victor Gosselin Carey, écuyer, Baillif, presents : William de Prélaz Crousaz, Jean Allés Simon, John Roussel, Osmond Priaulx Gallienne, Arthur Dorey, Geoffrey Alfred Carey, Ernest de Garis, Jean Nicolas Robin, Cyril de Putron, Aylmer Mackworth Drake et John Leale, écuyers, Jurés.

Monsieur le Baillif ayant ce jour communiqué à le Cour un Ordre de Sa Majesté en Conseil en date du vingt-sept octobre mil neuf cent trente-six, ratifiant un Projet de Loi intitulé " Loi relative à la Réforme de Diverses Dispositions de la Loi (1926) " ; la Cour, après avoir en lecture du dit Ordre, ouïes les conclusions des Officiers du Roi, a ordonné que le dit Ordre en Conseil sera enregistré sur les Records de cette Ile, duquel Ordre la teneur suit :—

At the Court at Buckingham Palace,

The 27th day of October, 1936

Present,

The King's Most Excellent Majesty

LORD PRESIDENT.
LORD STEWARD.
MASTER OF THE HORSE.
LORD CHAMBERLAIN.
EARL STANHOPE.
MAJOR ALEXANDER HARDINGE.
MR. MACKENZIE KING.

Whereas there was this day read at the Board
LE 14 NOVEMBRE 1936.

a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 24th day of July, 1936, in the words following, viz. :—

"Your Majesty having been pleased by Your General Order of Reference of the 31st day of January, 1936, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth :—(1) That on the 2nd day of May, 1936, the Law Officers of the Crown submitted to the Royal Court, a Bill or Projet de Loi intituled " Loi relative à la Réforme de diverses dispositions de la Loi (1936) ", when the Court duly adopted the same and requested the Bailiff to bring it before the States of Deliberation for their approval. (2) That on the 5th day of June, 1936, the said Bill or Projet de Loi was duly considered by the States, when a resolution was passed approving the same and authorising the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. (3) That the said Bill or Projet de Loi is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty would be graciously pleased to grant Your Royal Sanction to the Bill or Projet de Loi of the States of Guernsey intituled ' Loi relative à la Réforme de diverses dispositions de la Loi (1936) ', and to order and direct that the same shall have the force of Law within the Island of Guernsey.

"The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.

His Majesty having taken the said Report into consideration is pleased, by and with the advice

of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

And His Majesty doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

And the Lieutenant-Governor or Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

M. P. A. HANKEY.

PROJET DE LOI referred to in the foregoing Order.

PROJET DE LOI

INTITULÉ

LOI RELATIVE À LA RÉFORME DES DIVERSES DISPOSITIONS DE LA LOI (1936).

Les Etats ont approuvé les dispositions suivantes rédigées en anglais, lesquelles moyennant la Sanction de Sa Très Excellente Majesté en Conseil, auront force de Loi en cette Ile.

1.—*Effect of Death on Certain Causes of Action.*—

(1) Subject to the provisions of this section, on the death of any person after the commencement of this Law all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of his estate. Provided that this sub-section shall not apply to causes of action for defamation or seduction or for inducing one spouse to leave or remain apart from the other or to any claim against any person for damages on the ground of that person's adultery with the husband or wife of the claimant.

(2) Where a cause of action survives as aforesaid for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person :—

(a) shall not include any exemplary damages;

(b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry;

(c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section

Extended to Herm.

Prov Ordce 13 Mar 1948.

has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death; or
- (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representatives took out representation.

(4) 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 purposes 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.

(5) The rights conferred by this Law for the benefit of the 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 Law entitled "*Loi relative à la Compensation qui pourra être accordée aux Familles de Personnes dont la Mort aura été causée par Accident*" sanctioned by Order in Council registered on the Records of this Island on the 28th day of December, 1900 (hereinafter called "*the Fatal Accidents Law of 1900*") as amended by this Law or by the Order in Council entitled "*Carriage by Air (Guernsey) Order, 1935*", registered on the Records of this Island on the 29th day of June, 1935, 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 said Law as so amended and under the said Order in Council as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1) of this section.

(6) In the event of the insolvency of an estate against

which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in 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.

2.—*Amendment of the Fatal Accidents Law of 1900 and of the Law with respect to the assessment of Damages thereunder.*—

(1) In assessing damages in any action, whether commenced before or after the passing of this Law, under the Fatal Accidents Law of 1900, there shall not be taken into account any sum paid or payable on the death of the deceased under any contract of assurance or insurance, whether made before or after the passing of this Law.

(2) For the purposes of the Fatal Accidents Law of 1900, a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was only related to him illegitimately and, in addition to the relationships which under the provisions of that Law and of this subsection are included within the meaning of the expression “enfant” therein contained that expression shall include any child the custody of whom had been accepted by the deceased and who was still in such custody and was being wholly or partially maintained by the deceased at the time of the death of the latter.

(3) In any action brought under the Fatal Accidents Law of 1900, 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.

(4) This section shall not apply in relation to any action in respect of the death of any person before the commencement of this Law.

3.—*Short Title.*—This Law may be cited as the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1936.

QUERTIER LE PELLEY,

Greffier du Roi.