

COMPENSATION TO RELATIVES ORDINANCE 1951.⁽¹⁾

No. 34 of 1951.

An Ordinance to provide for compensating the Relatives of Persons whose death is caused wrongfully.

BE it ordained by the Administrator of the Government of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1950*, as follows:—

1. This Ordinance may be cited as the *Compensation to Relatives Ordinance 1951.*⁽¹⁾ Short title.
2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice⁽¹⁾ in the *Gazette*. Commencement.
3. The Ordinances specified in the Schedule to this Ordinance are repealed. Repeal.
4. In this Ordinance, unless the contrary intention appears— Definitions.
 - “child” includes son, daughter, grandson, granddaughter, stepson and stepdaughter;
 - “contract of insurance or assurance” includes a contract made with a friendly or other benefit society or association or trade union;
 - “court” means the Supreme Court;
 - “parent” includes father, mother, grandfather, grandmother, stepfather and stepmother.

5. Where the death of a person is caused by the wrongful act, neglect or default of another and the act, neglect or default is such as would, if death had not ensued, have entitled the person injured to maintain an action and recover damages in respect of the act, neglect or default, the person who would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death and although the death has been caused under such circumstances as amount in law to a crime. Liability for death caused wrongfully.

(1) Particulars of this Ordinance are as follows:—

Date on which made by Cwth. Administrator in Council.	Date on which notified in <i>Cwth. Gaz.</i>	Date on which took effect.
24.10.1951	1.11.1951	19.11.1951 (<i>Papua and N.G. Govt. Gaz.</i> of 19.11.1951)

PART A : COMPENSATION—

Action how
and for whom
brought.

6.—(1.) Except as provided in the next succeeding sub-section, the action referred to in the last preceding section shall be for the benefit of the wife, husband, parent and child of the deceased person, and shall, except as otherwise provided in this Ordinance, be brought by and in the name of the executor or administrator of the deceased person.

(2.) In the case of the death being that of a native, the action referred to in the last preceding section shall be for the benefit of the relatives of the native who by native custom were wholly or partly dependent on him at the time of his death and shall be brought by and in the name of the Director of District Services and Native Affairs.

Damages.

7.—(1.) In an action under the provisions of this Ordinance, the court may award such damages as it thinks proportioned to the pecuniary loss resulting from the death to the persons respectively for whose benefit the action is brought.

(2.) The amount recovered from the defendant in the action, after deducting the costs not recovered from the defendant, shall be divided among the persons for whose benefit the action is brought, in such shares as the court directs.

Action by
persons
interested.

8.—(1.) Where there is no executor or administrator to bring, or where the executor or administrator has not within six months after the death brought, an action referred to in section five of this Ordinance, the action may be brought by all or any of the persons for whose benefit a right of action is given by this Ordinance.

(2.) An action brought in accordance with the provisions of the last preceding sub-section shall be subject to the same procedure and be for the benefit of the same persons as if brought by an executor or administrator.

Assessment of
damages.

9. In assessing damages in an action brought under the provisions of this Ordinance, there shall not be taken into account any sum paid or payable under a contract of insurance or assurance on the death in respect of which the action is brought, whether the contract was made before or after the commencement of this Ordinance.

Limitation of
actions.

10. Not more than one action under the provisions of this Ordinance shall be brought in respect of the same subject matter of complaint, and no action shall be commenced except within twelve months after the death of the person injured.

11. In every action under the provisions of this Ordinance, the plaintiff shall, with the statement of claim, deliver to the defendant or his solicitor full particulars of the persons on whose behalf the action is brought and of the nature of the claim in respect of which damages are sought to be recovered. Particulars.

THE SCHEDULE.

Section 3.

ORDINANCE OF THE TERRITORY OF PAPUA.
Compensation to Relatives Ordinance, 1930.⁽²⁾

ORDINANCE OF THE TERRITORY OF NEW GUINEA.
Compensation to Relatives Ordinance 1934.⁽³⁾

(2) Printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. I., on pp. 537-538.
(3) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. I., on pp. 577-578.