Changes to legislation: *Fatal Accidents (Northern Ireland) Order 1977 is up to date with all changes known to be in force on or before 17 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1977 No. 1251 (N.I. 18)

Fatal Accidents (Northern Ireland) Order 1977

\- - - - - - *[26th July 1977]*

Modifications etc. (not altering text)

C1 Order applied (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **298(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)

C2 Order: functions of the Lord Chancellor are transferred to the Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1)(6), **Sch. 17 para. 29** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Title and commencement

1.—(1) This Order may be cited as the Fatal Accidents (Northern Ireland) Order 1977.

(2) *Commencement*

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

[F1(2) In this Order "dependant" means—

(a) the wife or husband or former wife or husband of the deceased;

[the civil partner or former civil partner of the deceased;**]**

F2(aa)

(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**[**F2 or civil partner**]** 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;

[F2(fa) any person (not being a child of the deceased) who, in the case of any civil partnership in which the deceased was at any time a civil partner, was treated by the deceased as a child of the family in relation to that civil partnership;**]**

(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.**]**

[F2(2B) The reference to the former civil partner of the deceased in paragraph (2)(aa) includes a reference to a person whose civil partnership with the deceased has been annulled as well as a person whose civil partnership with the deceased has been dissolved.**]**

(3) In deducing any relationship for the purposes of paragraph (2)—

Sub-para.(a) rep. by 1987 NI 22

(b) any relationship**[**F2 by marriage or civil partnership**]** 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.

Para. (4) rep. by 1987 NI 22

(5) Any reference in this Order to injury includes any disease and any impairment of a person's physical or mental condition.

F1 1982 c. 53
F2 2004 c.33

Right of action for wrongful act causing death

3.—(1 F3 If death is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) 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 shall be liable to an action for damages, notwithstanding the death of the person injured.

(2) **[**F4Subject to Article 3A(2), every**]** such action shall be for the benefit of the dependants of the person ("the deceased") whose death has been so caused.

F3 SI 1979/305
F4 1982 c. 53

[F5**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—

(a) of the wife or husband**[**F6 or civil partner**]** of the deceased; and

(b) where the deceased was a minor who was never married**[**F6 or a civil partner**]**

(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**[**F7£15,100.**]**

(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) **[**F8The Department of Justice may by order subject to negative resolution**]** amend this Article by varying the sum for the time being specified in paragraph (3).**]**

F5 1982 c. 53
F6 2004 c.33
F7 Art. 3A(3) sum substituted (1.5.2019) by The Damages for Bereavement (Variation of Sum) Order (Northern Ireland) 2019 (S.R. 2019/80), arts. 1(1), **2**
F8 Words in art. 3A(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 112(2)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Persons entitled to bring the action

4.—(1) The action shall be brought by and in the name of the executor or administrator of the deceased.

(2) If—

(a) there is no executor or administrator of the deceased, or

(b) no action is brought within six months after the death by and in the name of an executor or administrator of the deceased,

the action may be brought by and in the name of all or any of the**[**F9 person for whose benefit an executor or administrator could have brought it**]**.

(3) Not more than one action shall lie for and in respect of the same subject matter of complaint.

(4) The plaintiff in the action shall be required to deliver to the defendant or his solicitor full particulars of the**[**F9 persons**]** for whom and on whose behalf the action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

F9 1982 c. 53

Assessment of damages

5.—**[**F10(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**[**F10 (1A)**]** "directed" means—

(a) where the court seized of the proceedings consists of a judge sitting with a jury, directed by the jury; and