

ANTIGUA AND BARBUDA



THE FATAL ACCIDENTS BILL 2025

No. of 2025

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FATAL ACCIDENTS BILL 2025**

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THE FATAL ACCIDENTS BILL, 2025

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AN ACT to revise the law relating to the bringing of actions with respect to fatal accidents caused by wrongful conduct, and to provide for other related and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title and commencement

- (1) This Act may be cited as the Fatal Accidents Act, 2025.
- (2) This Act shall come into operation on a date to be appointed by the Minister by Notice published in the *Gazette*.

2. Interpretation

- (1) In this Act –

“child” includes son, daughter, grandson, granddaughter, stepson and stepdaughter;

“court” means the High Court;

“parent” includes father, mother, grandfather, grandmother, stepfather, and stepmother;

“personal representative” means the executor of the will or administrator of the estate of the deceased person.

“dependant” means –

(a) the wife or husband of the deceased;

(b) any person who –

- (i) was living with the deceased in the same household immediately before the date of death;
- (ii) had been living with the deceased in the same household for at least three years before that date; and
- (iii) was living during the whole of that period as the husband or wife of the deceased;

(c) any parent of the deceased;

(d) any person who was treated by the deceased as his or her parent;

(e) any 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.
- (2) For the purposes of this Act, a person shall be deemed to be the parent or child of a deceased person notwithstanding that he or she was only related to him or her in consequence of adoption.
- (3) In deducing any relationship for the purposes subsection (2), any adopted person shall be treated as being, or as having been, the legitimate offspring of his or her adopters.
- (4) In this subsection, the expression "adopted person" means a person who has been adopted, whether before or after the coming into operation of this Act, in pursuance of an adoption order made under any law pertaining to adoption.

3. Right of action for wrongful act causing death

A person who, by his or her wrongful act, neglect or default, causes injury to another person who later dies, shall be liable to an action for damages notwithstanding the death of the person injured.

4. Bereavement

- (1) An action under this Act 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 of the deceased; or
 - (b) of the parents of the deceased where the deceased was a minor or was never married.
- (3) The sum awarded as damages under this section shall be five thousand dollars (\$5,000.00).
- (4) Where there is a claim for damages under this section for the benefit of both parents of the deceased, the sum awarded shall be divided equally between them subject to any deduction to be made in respect of costs not recovered from the defendant.

5. Action to be for benefit of certain relatives

Every action under this Act shall be for the benefit of the dependants of the deceased person.

6. Persons entitled to bring action

- (1) An action under this Act shall be brought by and in the name of the personal representative of the deceased.
- (2) Where –
- (a) there is no personal representative; or
 - (b) the personal representative has failed to bring an action within one (1) year of the date of the death of the deceased,

the action may be brought by all or any of the persons for whose benefit such action would have been, if it had been brought by the personal representative.

- (3) An action under subsection (2) shall be subject to the same regulations and procedures, as if it were brought by the personal representative.

7. Assessment of damages

- (1) In any action under this Act, the court may award such damages to the beneficiaries of the deceased as it thinks appropriate to the pecuniary, financial or other loss resulting from such death to the parties for whose benefit the action was brought.
- (2) The court shall assess damages in accordance with Rule 16 of the Civil Procedure Rules (Revised Edition) 2023.
- (3) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (4) The court shall not take into account any sum paid or payable on the death of the deceased under any contract of assurance or insurance, or any benefit or payment from Social Security in the form of a death grant or survivor's benefit, not including a funeral grant.

8. Contributory negligence

Where a person dies as the result partly of his own fault and partly of the fault of any other person, any damages recoverable in an action under this Act shall be reduced to a proportionate extent in accordance with his or her fault.

9. Limitation of actions

- (1) An action shall not be brought under this Act if the death of the deceased occurred when he or she could no longer maintain an action and recover damages in respect of the injury, whether because of a time limit in any Act or for any other reason.
- (2) No action under this Act shall be brought after the expiration of three (3) years from –
 - (a) the date of death; or
 - (b) the date of knowledge of the person for whose benefit the action is brought,whichever is the later.

10. Action to follow Civil Procedure Rules

An action under this Act shall be commenced and be proceeded with in accordance with the Civil Procedure Rules for the time being in force in respect of recovery of damages for personal injury.

11. Act binds the Crown

This Act binds the Crown.

EXPLANATORY MEMORANDUM

The Fatal Accidents Bill, 2025 aims to modernize the existing law relating to actions for damages in relation to fatal accidents, and repeal the Fatal Accidents Act, Cap. 166.

Clause 1 – Short title and commencement. This Clause provides that the Bill may be cited as the Fatal Accidents Bill, 2025 and is to come into operation on a date to be appointed by the Minister by Order published in the *Gazette*.

Clause 2 – Interpretation. This Clause provides the context and background for the interpretation of the Act.

Clause 3 – Right of action for wrongful act causing death. This Clause provides a person who, by wrongful act, neglect or default, causes injury to another person who later dies, that person will be liable to an action for damages notwithstanding the death of the injured person.

Clause 4 – Bereavement. This Clause provides an action under this Act may include a claim for damages for bereavement and specifies the persons for whose benefit such an action may be brought. Further, it specifies the sum of the award.

Clause 5 – Action to be for the benefit of certain relatives. This Clause provides that any action under the Act is to be brought for the benefit of the dependant of the deceased.

Clause 6 – Persons entitled to bring action. This Clause provides that an action must be brought in the name of the personal representative of the deceased. However, where there is no personal representative, or the personal representative has failed to bring an action within twelve (12) months of the death of the deceased, the action may be brought by and in the names of the persons for whose benefit the action would have been brought, if it had been brought by and in the name of the person representative.

Clause 7 – Assessment of damages. This Clause outlines the manner in which the Court may assess damages to be awarded in accordance in an action under this Act.

Clause 8 – Contributory negligence. This Clause provides that where the death of a person is caused partly due to his own fault and the fault of another person, any damages recoverable in an action may be reduced by an amount proportionate to the fault of the deceased.

Clause 9 – Limitation of actions. This Clause provides that every action under the Act must be brought within three (3) years of the death of the deceased person, and only one action can be brought in respect of the same subject matter.

Clause 10 – Action to follow Civil Procedure Rules. This Clause provides that an action commenced under this Act is to be treated as an action for recovery of damages for personal injury.

Clause 11 –Act binds the Crown. This Clause provides that the Act binds the Crown.

Clause 12 – Repeals. This Clause provides that the Fatal Accidents Act, Cap. 166 is repealed.