



ANNO QUARTO

## GEORGII VI REGIS.

A.D. 1940.

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## No. 48 of 1940.

## An Act to amend the Wrongs Act, 1936-1939.

[Assented to 28th November, 1940.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the " Wrongs Act Amendment Act, 1940 ". Short titles.
- (2) The Wrongs Act, 1936-1939, as amended by this Act, may be cited as the " Wrongs Act, 1936-1940 ".
- (3) The Wrongs Act, 1936-1939, is hereinafter called " the principal Act ".
2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.
3. Section 18 of the principal Act is amended by inserting at the end of subsection (1) thereof the following definitions :— Amendment of s. 18 of principal Act— Interpretation.
  - " brother " includes half-brother and step-brother :
  - " sister " includes half-sister and step-sister.
4. Section 20 of the principal Act is amended by inserting after the word " parent " in the second line thereof the words " brother, sister ". Amendment of s. 20 of principal Act— Actions for the benefit of brothers and sisters.
5. The following sections are enacted and inserted in the principal Act after section 23 thereof :— Enactment of ss. 23a-23c of principal Act—
  - 23a. (1) Whenever the death of an infant is caused by a wrongful act, neglect or default, and the act, neglect, or default is such as would, if death had not ensued, have entitled the infant to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall, notwithstanding the death of the infant and although it was caused under such circumstances as amount in law to felony, be liable to pay to the surviving parents or parent of the child such Liability to parents of person wrongfully killed.

sum, not exceeding three hundred pounds in the aggregate, as the court thinks just by way of solatium for the suffering caused to the parents or parent by the death of the child.

(2) Where both parents bring an action to recover any sum of money payable under this section, the amount recovered after deducting the costs not recovered from the defendant, shall be divided between the parents in such shares as the court directs.

(3) Where both parents survive the child and either of them does not join in bringing an action under this section, the other may bring an action for such amount as he claims to be due to him or her.

(4) In this section "parent" means the father or mother of a legitimate child and the mother of an illegitimate child.

Liability to surviving husband or wife of person wrongfully killed.

23b. Whenever the death of a person is caused by a wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled that person to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued, shall, notwithstanding the death of the person injured and although the death was caused in such circumstances as amount in law to felony, be liable to pay the surviving wife or husband of the deceased person such sum, not exceeding five hundred pounds, as the court thinks just by way of solatium for the suffering caused to the wife or husband by such death.

Further provisions as to ss. 22a, 22b.

23c. (1) The rights conferred by sections 23a and 23b shall be in addition to and not in derogation of any rights conferred on the parent, husband or wife by any other provision of this Act.

(2) In an action brought to enforce any right given under section 23a or 23b of this Act the court may in its discretion refuse to order the payment of any sum by way of solatium if, having regard to the conduct of the plaintiff in relation to the deceased person, or to the relations which existed between the plaintiff and the deceased person, or for any other sufficient reason, it considers that no such payment should be made.

(3) Any cause of action conferred on any person by section 23a or 23b of this Act shall not, on the death of that person, survive for the benefit of his estate.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.