

Queensland



ANNO TRICESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 87 of 1981

**An Act to amend the Common Law Practice Act 1867–1978
and the Limitation of Actions Act 1974–1978 each
in certain particulars and for related purposes**

[ASSENTED TO 13TH NOVEMBER, 1981]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title and citation. This Act may be cited as the *Common Law Practice and Limitation of Actions Acts Amendment Act 1981*.

2. Commencement. (1) The provisions of section 5 shall be taken to have commenced on the day on which the Bill for this Act was introduced into the Legislative Assembly and shall be given retrospective effect accordingly.

(2) Except as provided by subsection (1), this Act shall commence on the day it is assented to for and on behalf of Her Majesty.

3. Arrangement of Act. This Act is divided into Parts as follows:—

PART I—PRELIMINARY (ss. 1-3);

PART II—AMENDMENT OF COMMON LAW PRACTICE ACT (ss. 4-7);

PART III—AMENDMENT OF LIMITATION OF ACTIONS ACT (ss. 8-13).

PART II—AMENDMENT OF COMMON LAW PRACTICE ACT

4. Citation. (1) In this Part the *Common Law Practice Act 1867-1978* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Common Law Practice Act 1867-1981*.

5. New s. 5. Compensation for future loss to be discounted. The Principal Act is amended by inserting after section 4 the following section:—

“ 5. Compensation for future loss to be discounted. (1) Where an award of damages is to include compensation, assessed as a lump sum, in respect of damage that is referable to deprivation or impairment of earning capacity or to a liability to incur expenditure in the future the amount of that compensation shall be the present value of that sum calculated in accordance with actuarial tables at a discount rate fixed by the Governor in Council by Order in Council as at the time of making the award or, in the absence of a rate so fixed, at a discount rate of 5 per centum.

(2) In fixing a discount rate for the purposes of subsection (1) the Governor in Council—

(a) may fix a positive, zero or negative rate; and

(b) shall have regard to the prevailing rates of inflation, the prevailing interest yields on fixed-term investment, the prevailing yields on investment in equities and such other economic factors as in his opinion are relevant to the fixing of an appropriate discount rate.”.

6. Amendment of s. 14. Limitation of actions. 9 & 10 Vic. c. 93 s. 3. Section 14 is amended by omitting all words from and including the words “ and that ” to and including the words “ deceased person ”.

7. Operation of s. 5 amendment. Actions in respect of which section 14 of the Principal Act as amended by this Part applies include every action that a person was, at any time before the commencement of this Part, entitled to maintain only if the right to bring the action has not expired as at the commencement of this Part.

PART III—AMENDMENT OF LIMITATION OF ACTIONS ACT

8. Citation. (1) In this Part the *Limitation of Actions Act 1974–1978* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Limitation of Actions Act 1974–1981*.

9. Amendment of s. 11. Actions in respect of personal injury. Cf. 5 Eliz. 2 No. 19, s. 5. Section 11 of the Principal Act is amended by inserting after the words “ to any person ” the words “ or damages in respect of injury resulting from the death of any person ”.

10. Amendment of s. 29. Extension in cases of disability. Cf. 9 Eliz. 2 No. 7, s. 27; U.K. 1939 s. 22; Vic. 1958, s. 23; II Eliz. 2 No. 29, s. 2. Section 29 of the Principal Act is amended by—

(a) in subsection (1), inserting after the words “ to whom ” the words “ or for whose benefit ”;

(b) in subsection (2) inserting in paragraph (c) after the words “ personal injury ” the words “ or damages in respect of injury resulting from the death of any person ”.

11. Amendment of s. 31. Ordinary actions. Cf. U.K. 1963, ss. 1, 2; N.S.W. 1969, s. 58. Section 31 of the Principal Act is amended by, in subsection (1), adding at the end of the section the words “ or damages in respect of injury resulting from the death of any person ”.

12. Amendment of s. 32. Surviving actions. Cf. U.K. 1963, ss. 1, 2, 3; N.S.W. 1969, s. 59. Section 32 of the Principal Act is amended by, in subsection (1), omitting the words “ 15D of the *Common Law Practice Act 1867–1972* ” and substituting the words “ 66 of the *Succession Act 1981* ”.

13. Operation of amendments. Actions and rights of action in respect of which the provisions of the Principal Act as amended by this Part apply include every action the right to bring which accrued before the commencement of this Part and every right of action that accrued before the commencement of this Part only if, in either case, the right has not expired as at the commencement of this Part.