

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Compensation (Fatal Injuries)
(Amendment) Bill 1991**

**A BILL
FOR**

**An Act to amend the *Compensation (Fatal Injuries)
Act 1968***

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Compensation (Fatal Injuries)
(Amendment) Act 1991*.

Principal Act

2. In this Act, "Principal Act" means the *Compensation (Fatal Injuries)
Act 1968*.¹

Damages

- 10 3. Section 10 of the Principal Act is amended—

- (a) by omitting subsection (3) and substituting the following subsections:

 “(3) The damages may include an amount to compensate for—

- 15 (a) any reasonable funeral expenses; and

- (b) any reasonable medical or hospital expenses related to the injury that resulted in the death;

paid or payable by a person for whose benefit the action is brought.

5 “(3A) An amount to compensate for any reasonable funeral expenses may be reduced to such an extent (if any) as the court thinks just and equitable having regard to the age and health of the deceased person immediately prior to the occurrence that gave rise to the cause of action.

10 “(3B) In determining whether an expense is reasonable for the purposes of paragraph (3) (a), regard shall be had to the religious and cultural circumstances of the deceased person and the members of his or her family.”; and

- (b) by adding at the end the following subsection:

15 “(5) In paragraph (3) (a), “funeral expenses” includes costs related to all or any of the following:

- (a) the publication of death and funeral notices;
- (b) the services of an undertaker, including the provision of vehicles;
- 20 (c) wreaths or floral tributes;
- (d) a funeral service;
- (e) a service at the burial or cremation site;
- (f) burial or cremation;
- (g) a headstone, plaque, tablet or other memorial.”.

25 **Substitution**

4. Section 11 of the Principal Act is repealed and the following section substituted:

Contributory negligence not a defence

30 “11. (1) Where a person has died partly as a result of his or her own fault and partly as a result of the fault of another person, in an action under this Act in respect of the death the damages recoverable shall not be reduced because of the fault of the deceased.

“(2) In subsection (1), ‘fault’ has the same meaning as in Part V of the *Law Reform (Miscellaneous Provisions) Act 1955*.

“(3) Subsection (1) does not apply in relation to a cause of action that arose before the commencement of this section.”.

NOTE

1. **Ordinance No. 9, 1968 as amended by No. 46, 1978; Nos. 9 and 66, 1985; No. 21, 1989.**