

WESTERN AUSTRALIA

ACTS AMENDMENT (ACTIONS FOR DAMAGES) ACT

No. 50 of 1986

AN ACT to amend the *Law Reform (Miscellaneous Provisions) Act 1941* and the *Supreme Court Act 1935* and for related purposes.

[Assented to 4 August 1986.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment (Actions for Damages) Act 1986*.

Commencement

2. The provisions of this Act shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

PART II—LAW REFORM (MISCELLANEOUS PROVISIONS) ACT 1941**Principal Act**

3. In this Part the *Law Reform (Miscellaneous Provisions) Act 1941** is referred to as the principal Act.

[*Reprinted as approved 25 September 1983 and amended by Act No. 84 of 1983.]

Section 3 inserted

4. (1) After section 2 of the principal Act the following section is inserted—

Abolition of action for loss of wife's society or services

“ 3. A person shall not be liable in tort to the husband of a married woman by reason only of the person having deprived the husband of the services or society, or services and society, of the woman. ”.

(2) The section inserted by subsection (1) has no operation in relation to a cause of action in respect of which legal proceedings have been instituted before the commencement of this section but otherwise applies to and in respect of acts and omissions occurring before that commencement in the same way as it applies to acts and omissions occurring after that commencement.

Section 5 inserted

5. (1) After section 4 of the principal Act the following section is inserted—

Discount rate applicable to damages awarded for future loss

“ 5. (1) Where an award of damages that relates to personal injury or the death of a person is to include compensation, awarded as a lump sum, in respect of damage for future loss that is referable to—

(a) loss or impairment of capacity to earn;

(b) loss or diminution of future probable earnings; or

(c) a liability to incur expenditure in the future,

the present value of the future loss shall be quantified by adopting—

(d) a discount rate of the percentage fixed by the Governor by Order; or

(e) where no percentage is fixed as referred to in paragraph (d), a discount rate of 6%.

(2) The Governor may, by Order made on the recommendation of the Attorney General, fix a discount rate as referred to in subsection (1) (d).

(3) In subsection (1) “personal injury” includes any disease and any impairment of a person’s physical or mental condition. ”.

(2) The section inserted by subsection (1) has no operation in relation to a cause of action in respect of which a court has given judgment before the commencement of this section, whether or not that judgment is subject to appeal, but otherwise applies to and in respect of causes of action arising before that commencement in the same way as it applies to causes of action arising after that commencement.

PART III—*SUPREME COURT ACT 1935*

Section 32 amended

6. (1) Section 32 of the *Supreme Court Act 1935** is amended—

(a) in subsection (2) by inserting after paragraph (a) the following paragraph—

“ (aa) apply in relation to any general damages in respect of pain and suffering or the loss of the enjoyment or of the amenities of life awarded in relation to personal injury or the death of a person; ”;

and

(b) by inserting after subsection (2) the following subsection—

“ (2a) In subsection (2) (aa) “personal injury” includes any disease and any impairment of a person’s physical or mental condition. ”.

(2) Section 32 of the *Supreme Court Act 1935** as amended by subsection (1) has no operation in relation to a cause of action in respect of which a court has given judgment before the commencement of this section, whether or not that judgment is subject to appeal, but otherwise applies to and in respect of causes of action arising before that commencement in the same way as it applies to causes of action arising after that commencement.

[*Reprinted as approved 12 May 1980 and amended by Acts Nos. 52 of 1981, 7, 10 and 47 of 1982, 47 of 1983, 9, 72 and 102 of 1984 and 109 of 1985.]
