



**AN BILLE UM DHLITEANAS SIBHIALTA (LEASÚ), 1996
CIVIL LIABILITY (AMENDMENT) BILL, 1996**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Amendment of section 47 (definitions (Part IV)) of Civil Liability Act, 1961.
2. Amendment of section 49 (damages) of Principal Act.
3. No mental distress damages to certain persons.
4. Amendment of section 18 of Air Navigation and Transport Act, 1936.
5. Short title.

(b) a person whose marriage to the deceased has been dissolved by a decree of divorce that was granted under the law of a country or jurisdiction other than the State and is recognised in the State or

(c) a person who was not married to the deceased but who, until the date of the deceased's death, had been living with the deceased as husband and wife for a continuous period of not less than three years.

who has suffered injury or mental distress as a result of the death;

"wrongful act" includes a crime.

(2) Subsection (1) shall not have effect in relation to a cause of action that accrued before that subsection comes into operation.

(1) Section 49 of the Principal Act, as amended by section 28 (1) of the Courts Act, 1981, is hereby amended—

(a) in paragraph (b) of subsection (1), by substituting "€15,000" for "€7,500";

ACTS REFERRED TO

Air Navigation and Transport Act, 1936	1936, No. 40
Air Navigation and Transport Act, 1965	1965, No. 6
Air Navigation and Transport Act, 1988	1988, No. 15
Civil Liability Act, 1961	1961, No. 41
Courts Act, 1981	1981, No. 11

As initiated
for a non-consultation

ARRANGEMENT OF SECTIONS

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**AN BILLE UM DHLITEANAS SIBHIALTA (LEASÚ), 1996
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BILL

entitled

**5 AN ACT TO AMEND THE LAW RELATING TO CIVIL
LIABILITY.**

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.—(1) Section 47 of the Civil Liability Act, 1961 (hereinafter in
this Act called “the Principal Act”) is hereby amended by the substi-
10 tution of the following subsection for subsection (1):**

Amendment of
section 47
(definitions (Part
IV)) of Civil
Liability Act, 1961.

“(1) In this Part—

‘dependant’ means, in respect of a deceased person whose death
is caused by a wrongful act—

15 (a) a spouse, parent, grandparent, step-parent, child, grand-
child, step-child, brother, sister, half-brother or half-sister
of the deceased,

20 (b) a person whose marriage to the deceased has been dissolved
by a decree of divorce that was granted under the law
of a country or jurisdiction other than the State and is
recognised in the State, or

25 (c) a person who was not married to the deceased but who, until
the date of the deceased’s death, had been living with the
deceased as husband and wife for a continuous period of
not less than three years,

who has suffered injury or mental distress as a result of the
death;

“wrongful act” includes a crime.”.

No mental distress
damages to certain
persons.

(2) Subsection (1) shall not have effect in relation to a cause of
action that accrued before that subsection comes into operation.

30 **2.—(1) Section 49 of the Principal Act, as amended by section 28
(1) of the Courts Act, 1981, is hereby amended—**

Amendment of
section 49
(damages) of
Principal Act.

(a) in paragraph (b) of subsection (1), by substituting “£15,000”
for “£7,500”;

(b) by the insertion of the following subsections after subsection (1):

“(1A) Where the Minister for Equality and Law Reform is satisfied that the monetary amount for the time being standing specified—

(a) in paragraph (b) of subsection (1), or

(b) in respect of paragraph (b) of subsection (1), by virtue of an order made under this subsection,

should, having regard to changes in the value of money generally in the State since the monetary amount was so specified, be varied, the Minister may by order specify an amount that the Minister considers is appropriate, and in such case paragraph (b) of subsection (1) shall, in relation to any cause of action that accrues while the order is in effect, have effect as if the amount specified in the order were set out in that paragraph.

(1B) Every order made under subsection (1A) shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to any cause of action that accrued while the order was in effect.”

and

(c) by the insertion of the following subsection after subsection (4):

“(5) Where a person referred to in paragraph (c) of the definition of ‘dependant’ in section 47 (1) had no enforceable right to financial maintenance by the deceased, the court shall take that fact into account, together with any other relevant matter, in determining the damages to be awarded to the person by virtue of subparagraph (i) of paragraph (a) of subsection (1) of this section.”

(2) Subsection (1) shall not have effect in relation to a cause of action that accrued before that subsection comes into operation.

No mental distress damages to certain persons.

3.—(1) The Principal Act is hereby amended by the insertion of the following section after section 49:

“49A.—Notwithstanding anything in this Part, damages may not be awarded to a person referred to in paragraph (b) of the definition of ‘dependant’ in section 47 (1) in respect of any mental distress allegedly caused to the person by the death of the deceased.”

(2) Subsection (1) shall not have effect in relation to a cause of action that accrued before that subsection comes into operation.

4.—(1) Section 18 of the Air Navigation and Transport Act, 1936, substituted by the Air Navigation and Transport Act, 1965, and amended by the Courts Act, 1981 and by the Air Navigation and Transport Act, 1988, is hereby amended—

Amendment of section 18 of Air Navigation and Transport Act, 1936.

5 (a) in subsection (1), by the substitution of the following paragraph for paragraph (a):

10 “(a) In this section ‘dependant’, in relation to a passenger in respect of whose death a liability is imposed on a carrier by Article 17 of the Warsaw Convention or the Guadalajara Convention, means—

11 (i) a spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother or half-sister of the deceased,

15 (ii) a person whose marriage to the deceased has been dissolved by a decree of divorce that was granted under the law of a country or jurisdiction other than the State and is recognised in the State, or

20 (iii) a person who was not married to the deceased but who, until the date of the deceased’s death, had been living with the deceased as husband and wife for a continuous period of not less than three years,

25 who has suffered injury or mental distress as a result of the death.”,

(b) in paragraph (g) of subsection (2), by substituting “£15,000” for “£7,500”, and

(c) by the insertion of the following subsections after subsection (2):

30 “(2A) Where the Minister for Equality and Law Reform is satisfied that the monetary amount for the time being standing specified—

(a) in paragraph (g) of subsection (2), or

35 (b) in respect of paragraph (g) of subsection (2), by virtue of an order made under this subsection,

40 should, having regard to changes in the value of money generally in the State since the monetary amount was so specified, be varied, the Minister may by order specify an amount that the Minister considers is appropriate, and in such case paragraph (g) of subsection (2) shall, in relation to any cause of action that accrues while the order is in effect, have effect as if the amount specified in the order were set out in that paragraph.

45 (2B) Every order made under subsection (2A) shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the order is passed by either House within the next 21 days

Amendment of
section 18 of Air
Navigation and
Transport Act,
1936

on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to any cause of action that accrued while the order was in effect.

(2C) Where a person referred to in subparagraph (iii) of the definition of 'dependant' in subsection (1) had no enforceable right to financial maintenance by the deceased, the court shall take that fact into account, together with any other relevant matter, in determining the damages to be awarded to the person by virtue of subparagraph (i) of paragraph (f) of subsection (2).

(2D) Notwithstanding anything in this section, damages may not be awarded to a person referred to in subparagraph (ii) of paragraph (a) of subsection (1) in respect of any mental distress allegedly caused to the person by the death of the deceased."

(2) Subsection (1) shall not have effect in relation to a cause of action that accrued before that subsection comes into operation.

Short title.

5.—This Act may be cited as the Civil Liability (Amendment) Act, 1996.

No mental distress
damages to certain
persons.

should, having regard to changes in the value of money to not... in the state since the monetary amount was so... specified, be varied, the Minister may by order specify an amount that the Minister considers is appropriate, and in relation to any cause of action that accrues while the order is in effect, have effect as if the amount specified in the order were the amount specified in that paragraph... (2B) Every order made under subsection (2A) shall be laid before each House of the Oireachtas as soon as practicable after it is made and a resolution annulling the order is passed by either House within the next 21 days...

BILL
CIVIL LIABILITY (AMENDMENT) BILL, 1996
(as amended)

(as amended)

(as amended)

enacted

enacted

EXPLANATORY AND FINANCIAL MEMORANDUM

An Act to amend the law relating to civil liability.

An Act to amend the law relating to civil liability.

General

1. The Bill increases the maximum amount payable by way of compensation for mental distress in fatal injuries actions brought by persons under the Civil Liability Act, 1961 and it extends to cohabitants and to persons whose foreign divorce is entitled to recognition in the State, the right to claim certain damages under the 1961 Act.

Present Law

2. Part IV of the Civil Liability Act, 1961 gives to dependants of a deceased a right to claim damages as compensation for loss of pecuniary benefits, for mental distress and for funeral expenses, where the death is caused by the wrongful act of another. The right of action is confined to family relatives. It does not extend to former spouses or cohabitants.

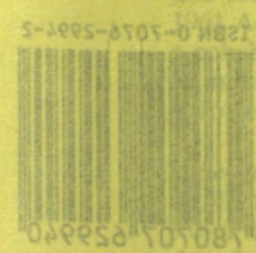
3. The maximum amount of compensation payable by way of mental distress in fatal injuries actions is £15,000. The amount awarded by the court in such actions is divided among each person who is joined to the action for damages.

Provisions of the Bill

4. Section 1 amends the definition of "dependant" in section 47 of the 1961 Act to include persons whose foreign decree of divorce is entitled to recognition in the State and cohabitants who have been living together for at least three years immediately before the death of the other cohabitant. The effect is to allow certain heads of damage under the 1961 Act to be able to claim damages for loss of pecuniary benefits, for funeral expenses where the death is caused by the wrongful act of another. A new subsection inserted by section 3 of the Bill may not claim damages for mental distress to claim damages for loss of pecuniary benefits, for funeral expenses and for mental distress. A new subsection inserted by section 2 of the Bill may not claim damages for mental distress.

5. Section 2 amends section 49 of the 1961 Act to increase from £15,000 the maximum amount payable by way of compensation for mental distress in fatal injuries cases under the 1961 Act.

Any future increases in the upper limit on damages for mental distress can, on the basis of provision in section 2, be by way of an amendment made by the Minister for Equality and Law Reform.



AN BILLE UM DHLITEANAS SIBHIALTA
(LEASÚ), 1996

CIVIL LIABILITY (AMENDMENT) BILL,
1996

BILLE

(*mar a tionscnaíodh*)

dá ngairtear

Acht do leasú an dlí a bhaineann le dliteanas sibhialta.

BILL

(*as initiated*)

entitled

An Act to amend the law relating to civil liability.

Short title.

5.—This Act may be cited as the Civil Liability (Amendment) Act, 1996.

*An Seanadóir Muiris Ó Mainnín a thíolaic,
19 Meitheamh, 1996*

*Presented by Senator Maurice Manning,
19th June, 1996*

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