

The Survival of Actions Act

being

[Chapter S-66.1](#) of the *Statutes of Saskatchewan, 1990-91* (effective June 22, 1990) as amended by the *Statutes of Saskatchewan, 1992, c.62*; *2004, c.L-16.1*; and *2018, c.42*.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER S-66.1

An Act respecting the Survival of Certain Causes of Action

Short title

1 This Act may be cited as *The Survival of Actions Act*.

Interpretation

2 In this Act, “**cause of action**” means:

- (a) the right to bring a civil proceeding; or
- (b) a civil proceeding commenced before death;

but does not include a prosecution for the contravention of an Act, regulation or bylaw.

1990-91, c.S-66.1, s.2.

Cause of action survives for benefit of estate

3 A cause of action vested in a person who dies after the coming into force of this Act survives for the benefit of that person’s estate.

1990-91, c.S-66.1, s.3.

Cause of action survives against estate

4 A cause of action existing against a person who dies after the coming into force of this Act survives against that person’s estate.

1990-91, c.S-66.1, s.4.

Cause of action deemed to exist before death

5 If a cause of action for damages suffered by reason of an act or omission would have existed against a person had that person not died at or before the time the damage was suffered, the cause of action is deemed to have existed against the person before that person’s death.

1990-91, c.S-66.1, s.5.

Only pecuniary loss recoverable

6(1) Subject to subsection (3), if a cause of action survives pursuant to section 3, only those damages that resulted in actual pecuniary loss to the deceased or the deceased’s estate are recoverable.

(2) Aggravated damages or damages for:

- (a) the loss of expectation of life;
- (b) the loss of expectancy of earnings subsequent to death;
- (c) pain and suffering;
- (d) physical disfigurement; or
- (e) loss of amenities;

are not recoverable as a result of this Act.

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(3) If a cause of action survives pursuant to this Act, punitive or exemplary damages are only recoverable from:

- (a) in the case of a cause of action that survives pursuant to section 3, the person against whom the cause of action exists;
- (b) in the case of a cause of action that survives pursuant to section 4, the estate of the deceased person against whom the cause of action survives, but only if the award of damages is with respect to a gain by the deceased as a result of the deceased's wrongful conduct.

1990-91, c.S-66.1, s.6.

Calculation of damages

7(1) If the death of a person was caused by an act or omission that gave rise to a cause of action, the damages shall be calculated without reference to a loss or gain to the person's estate as a result of the death.

(2) Notwithstanding subsection (1), reasonable expenses of the funeral and disposal of the body of the deceased may be included in the damages awarded if the expenses were, or liability for them was, incurred by the estate.

1990-91, c.S-66.1, s.7.

Cause of action asset or liability

8 A cause of action that survives pursuant to this Act and a judgment or order on it or relating to the costs of it is an asset or liability, as the case may be, of the estate to which the cause of action relates.

1990-91, c.S-66.1, s.8.

Administrator ad litem

9(1) If a cause of action survives pursuant to this Act and there is no personal representative of the deceased against whom the action may be brought or continued in Saskatchewan, the Court of Queen's Bench:

- (a) on the application of a person entitled to bring or continue the action; and
- (b) on any notice that the court considers proper;

may appoint an administrator *ad litem* of the estate of the deceased.

(2) On the appointment of an administrator *ad litem*, the action may be brought against or defended by the administrator.

(3) An administrator *ad litem* appointed pursuant to subsection (1) may take any steps that a defendant may take in an action, including third party proceedings and the bringing, by way of counterclaim, of any action that survives for the benefit of the estate of the deceased.

(4) A judgment obtained by or against the administrator *ad litem* has the same effect as a judgment in favour of or against the deceased or the deceased's personal representative, as the case may be, but has no effect for or against the administrator *ad litem* in the administrator's personal capacity.

1990-91, c.S-66.1, s.9; 1992, c.62, s.31; 2018, c.42, s.65.

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- 10 Repealed.** 2004, c.L-16.1, s.81.
- Crown bound**
- 11** The Crown is bound by this Act.
1990-91, c.S-66.1, s.11.
- R.S.S. 1978, c.L-15, section 3 amended**
- 12** Subsection 3(4) of *The Limitation of Actions Act* is repealed.
1990-91, c.S-66.1, s.12.
- R.S.S. 1978, c.T-23, sections 58 to 60 repealed**
- 13** Sections 58 to 60 of *The Trustee Act* are repealed.
1990-91, c.S-66.1, s.13.

