



ANALYSIS

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1956, No. 23

An Act to reform the law relating to the enforcement of certain contracts

[19 October 1956]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Contracts Enforcement Act 1956.

2. Proof of contracts relating to land and to guarantees—

(1) This section applies to—

- (a) Every contract for the sale of land:
- (b) Every contract to enter into any disposition of land, being a disposition that is required by any enactment to be made by deed or instrument or in writing or to be proved by writing:
- (c) Every contract to enter into any mortgage or charge on land:
- (d) Every contract by any person to answer to another person for the debt, default, or liability of a third person.

(2) No contract to which this section applies shall be enforceable by action unless the contract or some memorandum or note thereof is in writing and is signed by the party to be charged therewith or by some other person lawfully authorised by him.

(3) Nothing in this section shall—

(a) Apply to any sale of land by order of the Supreme Court or through the Registrar of that Court:

(b) Apply to any alienation of Maori land by a Maori, being an alienation that is required by the Maori Affairs Act 1953 to be confirmed by the Maori Land Court, or to any sale of Maori land by order of that Court:

(c) Affect the operation of the law relating to part performance.

(4) For the purposes of this section,—

“Disposition” includes any conveyance, transfer, grant, partition, exchange, lease, assignment, surrender, disclaimer, appointment, settlement, or other assurance; and any declaration or creation of a trust; and any devise, bequest, or appointment by a will:

“Land” means any estate or interest, whether freehold or chattel, in real property.

(5) The foregoing provisions of this section apply only to contracts made after the passing of this Act.

(6) This section is in substitution for section four of the Statute of Frauds 1677 of the Parliament of England, and that section shall cease to be in force in New Zealand, except in respect of contracts made before the passing of this Act.

Cf. Statute of Frauds 1677, s. 4 (U.K.); Law of Property Act 1925, s. 40 (U.K.)

3. Consideration for guarantee need not appear in writing—

(1) No contract whereby any person promises to answer to another person for the debt, default, or liability of a third person shall, if the contract or some memorandum or note thereof is in writing and is signed by the party to be charged therewith or some other person lawfully authorised by him, be deemed insufficient to support an action or other proceeding to charge the person by whom the promise was made, by reason only that the consideration for the promise does not appear in writing or by necessary inference from a written document.

(2) This section is in substitution for section eighty-three of the Judicature Act 1908, and that section is hereby repealed.

Cf. 1908, No. 89, s. 83

4. Repeal of section 6 of Sale of Goods Act 1908—(1) Section six of the Sale of Goods Act 1908 is hereby repealed.

(2) Notwithstanding the repeal of the said section six, that section shall continue to apply, as if this Act had not been passed, to contracts made before the passing of this Act.

5. Consequential repeal and amendment—(1) Section seven of the Sharemilking Agreements Act 1937 is hereby repealed. Notwithstanding the repeal of the said section seven, that section shall continue to apply, as if this Act had not been passed, to sharemilking agreements made before the passing of this Act.

(2) Section three of the Law Reform (Testamentary Promises) Act 1949 is hereby amended by inserting in paragraph (b) of subsection two, after the words "section four of the Statute of Frauds 1677", the words "or section two of the Contracts Enforcement Act 1956".

6. Saving—Subject to the provisions of this Act, it is hereby declared that the provisions of sections twenty and twenty-one of the Acts Interpretation Act 1924 shall apply with respect to section four of the Statute of Frauds 1677, as repealed by this Act, as if that section were an Act of the General Assembly of New Zealand. Subject as aforesaid, every document made or any thing done under or for the purposes of that section, so far as it is subsisting or in force at the passing of this Act and could have been made or done under or for the purposes of section two of this Act, shall continue and have effect as if it had been made or done under or for the purposes of the said section two and as if the said section two had been in force when the document was made or the thing was done.

7. Act to bind the Crown—This Act shall bind the Crown.
