



ANALYSIS

Title
1. Short Title

2. Crown not liable to pay compensation or damages for death or disablement of members of New Zealand armed forces where pension may be claimed

1962, No. 120

An Act to amend the Crown Proceedings Act 1950

[14 December 1962]

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 Crown Proceedings Amendment Act 1962, and shall be read together with and deemed part of the Crown Proceedings Act 1950 (hereinafter referred to as the principal Act).

2. Crown not liable to pay compensation or damages for death or disablement of members of New Zealand armed forces where pension may be claimed—(1) Section 9 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) No proceedings for compensation or damages shall lie against the Crown or any officer of the Crown in respect of the death or disablement of any member of the New Zealand armed forces, if—

“(a) Any pension has at any time been paid or is being paid under the War Pensions Act 1954 in respect of that death or disablement; or

“(b) A War Pensions Board has determined that for the purposes of section 19 of the War Pensions Act 1954 that death or disablement is attributable to, or is deemed to be attributable to, the service of the member with the forces, or that the condition that resulted in that death or disablement was aggravated by his service with the forces:

“Provided that this subsection shall not exempt an officer of the Crown from liability for any act or omission in any case where the Court is satisfied that the act or omission was not connected with the execution of his duties as an officer of the Crown.

“(2) Any determination of a War Pensions Board under subsection (1) of this section may be made by the Board whether or not a claim for a pension has been made under the War Pensions Act 1954.

“(2A) A certificate by the Secretary for War Pensions to the effect that a War Pensions Board has determined that for the purposes of section 19 of the War Pensions Act 1954 the death or disablement of a member is attributable to, or is deemed to be attributable to, his service with the forces, or that the condition that resulted in the death or disablement of the member was aggravated by his service with the forces, shall for the purposes of this section be conclusive as to the fact which it certifies.”

(2) Nothing in subsection (1) of this section shall apply to any proceedings (whether commenced before or after the passing of this Act) against the Crown or any officer of the Crown in respect of the death or disablement of any member of the New Zealand armed forces where the cause of action arose before the passing of this Act, and those proceedings may be continued or commenced, as the case may be, as if this Act had not been passed.

This Act is administered in the Department of Justice.
