

New Zealand



ANALYSIS

- | | |
|--|--|
| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Damages may be recovered for injury suffered as a result of shock. 3. Estate of deceased person liable to remunerate persons for work done under promise of testamentary provision. | <ol style="list-style-type: none"> 4. Construction of "month" where used in deeds and other instruments. 5. Rule against perpetuities not to apply to superannuation funds. 6. Validation of certain gifts void for remoteness. 7. Wills in contemplation of marriage. |
|--|--|

1944, No. 18

Title. AN ACT to effect Miscellaneous Reforms in the Law.
[5th December, 1944]

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

Short Title. 1. This Act may be cited as the Law Reform Act, 1944.

Damages may be recovered for injury suffered as a result of shock.
Cf. 1932, No. 4070, s. 4 (Victoria)

2. In any action for injury to the person, whether founded on contract or in tort or otherwise, a party shall not be debarred from recovering damages merely because the injury complained of arose wholly or in part from mental or nervous shock.

3. (1) Where in the administration of the estate of any deceased person a claim is made against the estate founded upon the rendering of services to or the performance of work for the deceased in his lifetime and the claimant proves an express or implied promise by the deceased to reward him for the services or work by making some testamentary provision for the claimant, the claim shall, to the extent to which the deceased has failed to make that testamentary provision or otherwise remunerate the claimant (whether or not a claim for such remuneration could have been enforced in the lifetime of the deceased), be enforceable against the personal representatives of the deceased in the same manner and to the same extent as if the promise of the deceased were a promise for payment by the deceased in his lifetime of the amount specified in the promise or, if no amount is specified, of such amount as may be reasonable, having regard to all the circumstances of the case, including in particular the circumstances in which the promise was made and the services were rendered or the work was performed, the value of the services or work, the amount of the estate, and the nature and amounts of the claims of other persons against the estate, whether as creditors, beneficiaries, wife, husband, children, next-of-kin, or otherwise.

Estate of deceased person liable to remunerate persons for work done under promise of testamentary provision.

(2) No action to enforce a claim under this section shall be maintainable unless the action is commenced within twelve months after the personal representative of the deceased took out representation.

(3) All actions to enforce claims under this section shall be commenced in the Supreme Court and, notwithstanding anything to the contrary in the Judicature Amendment Act, 1936, shall be tried before a Judge without a jury.

1936, No. 22

(4) For the purposes of the Death Duties Act, 1921, and for all other purposes any amount awarded on a claim under this section shall be deemed to be a legacy left by the deceased to the claimant.

See Reprint of Statutes, Vol. VII, p. 354

4. In all deeds, contracts, wills, orders, and other instruments executed or made after the passing of this Act, unless the context otherwise requires, the word "month" shall be deemed to mean a calendar month.

Construction of "month" where used in deeds and other instruments.

Cf. 15 Geo. V, c. 20, s. 61 (imp.)

Rule against
perpetuities not
to apply to
superannuation
funds.

Cf. 17 & 18
Geo. V, c. 41
(Imp.)

See Reprint
of Statutes,
Vol. VII, p. 271

Validation of
certain gifts
void for
remoteness.

Cf. 15 Geo. V,
c. 20, s. 163
(Imp.)

5. The rule of law relating to perpetuities shall not apply and shall be deemed never to have applied to the trusts of any fund of which the main purpose or one of the main purposes is the provision of retiring-allowances or pensions on retirement to persons employed in the undertaking or combination of undertakings in connection with which the fund is established, if the fund is a superannuation fund within the meaning of the Land and Income Tax Act, 1923, or if the fund is such that the Commissioner of Taxes allows deductions to be made under section eighty-two of that Act of the whole or any part of the amounts set aside or paid by the employer as or to the fund.

6. (1) Where in a will, settlement, or other instrument the absolute vesting either of capital or income of property, or the ascertainment of a beneficiary or class of beneficiaries, is made to depend on the attainment by the beneficiary or members of the class of an age exceeding twenty-one years, and thereby the gift to that beneficiary or class or any member thereof, or any gift over, remainder, executory limitation, or trust arising on the total or partial failure of the original gift, is, or but for this section would be, rendered void for remoteness, the will, settlement, or other instrument shall take effect for the purposes of such gift, gift over, remainder, executory limitation, or trust as if the absolute vesting or ascertainment aforesaid had been made to depend on the beneficiary or member of the class attaining the age of twenty-one years, and that age shall be substituted for the age stated in the will, settlement, or other instrument.

(2) This section applies to any instrument executed after the passing of this Act and to any testamentary appointment (whether made in exercise of a general or special power), devise, or bequest contained in the will of a person dying after such passing, whether the will is made before or after such passing.

(3) This section applies without prejudice to any provision whereby the absolute vesting or ascertainment is also made to depend on the marriage of any person, or any other event which may occur before the age stated in the will, settlement, or other instrument is attained.

7. (1) A will expressed to be made in contemplation of a marriage shall, notwithstanding anything in section eighteen of the Wills Act, 1837, or any other statutory provision or rule of law to the contrary, not be revoked by the solemnization of the marriage contemplated.

(2) This section only applies to wills made after the passing of this Act.

Wills in contemplation of marriage.

Cf. 15 Geo. V, c. 20, s. 177 (Imp.)

7 Will. IV & 1 Vict., c. 26 (Imp.)