



ANALYSIS

Title
1. Short Title

2. Claims for damages or compensation against estate of deceased owner where no administrator

1957, No. 59

An Act to amend the Law Reform Act 1936

[24 October 1957]

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 Law Reform Amendment Act 1957, and shall be read together with and deemed part of the Law Reform Act 1936 (hereinafter referred to as the principal Act).

2. Claims for damages or compensation against estate of deceased owner where no administrator—The principal Act is hereby amended by inserting, after section nine, the following section:

“9A. (1) Where—

“(a) Any person desires to claim damages or compensation on account of any event, whether happening before or after the commencement of this section, in respect of which a contract of insurance was in force at the time of the happening of the event indemnifying the insured from liability in respect of those damages or that compensation; and

“(b) The insured is deceased and there is in New Zealand no administrator within the meaning of the Administration Act 1952 of the estate of the insured,—

the person desiring to claim those damages or that compensation may give notice in writing to the insurer requiring the insurer to nominate some person to be the defendant in place of the insured in any action proposed to be brought in any Court claiming those damages or that compensation.

“(2) Within fourteen days after the service on the insurer of such a notice, the insurer may, by notice in writing served on the claimant, nominate some person (with his consent) to be the defendant in the proposed action, and thereupon the claimant may sue the defendant so nominated, describing him as the administrator *ad litem* of the estate of the insured.

“(3) If within the said period of fourteen days the insurer does not nominate a defendant as aforesaid, the Court in which an action claiming those damages or that compensation is intended to be commenced may, on the application of the claimant, appoint the Public Trustee to be the administrator *ad litem* of the estate of the insured for the purposes of the intended action, and it shall be the duty of the Public Trustee to act as such.

“(4) Where any such appointment is made, the claimant may sue the Public Trustee, describing him as the administrator *ad litem* of the estate of the insured.

“(5) The person nominated as the defendant by the insurer or, as the case may be, the Public Trustee shall be indemnified by the insurer in respect of any judgment against him (including the costs of the action and any costs awarded under subsection six of this section), and also in respect of all costs and expenses reasonably incurred by him in or in connection with the action irrespective of the result of the action, and, in the case of the Public Trustee, shall be entitled to recover from the insurer reasonable remuneration for his services:

“Provided that, where in any such action the plaintiff obtains judgment against the administrator *ad litem*, the judgment shall not be enforceable against the administrator *ad litem* by execution or otherwise except to the extent to which the insured was entitled to be indemnified by the insurer under the contract of insurance, and, to the extent to which the judgment is not so enforceable, the amount thereof shall be deemed to be a liability of the estate (if any) of the insured, and shall be enforceable accordingly against that estate.

“(6) Where in any action against the Public Trustee as administrator *ad litem* the plaintiff recovers judgment, the Court may award the plaintiff his costs of and incidental to the order appointing the Public Trustee as such administrator.

“(7) No appointment or nomination of an administrator *ad litem* under this section shall confer any rights or impose any obligations on the Public Trustee or on the person so nominated in respect of any other assets of the estate of the insured or any liabilities in connection with that estate.”
