

PASSENGERS' RIGHTS CONSERVATION

EXPLANATORY MEMORANDUM

It was decided in *Haigh v. Royal Mail Steam Packet Company Limited*: (1883) 48 Law Times Report 267, that a plaintiff, the widow of a passenger drowned at sea in consequence of the alleged negligence of the defendant could not maintain an action for damages in respect of the death of her husband for the reason that the ticket evidencing the contract of carriage had endorsed thereon a condition exempting the company from liability for injury by reason of any negligence. Since that case all shipping companies issue tickets to passengers subject to exculpatory conditions on lines similar to those printed on the ticket in Haigh's case. It may be thought that this statement of the law is inconsistent with the decision of the Court of Appeal in *Dummer and Another v. The Shaw Savill and Albion Company, Limited* (C.A.) (1911) XXX, N.Z.L.R. 779. In that case the plaintiffs were awarded damages on two grounds: (1) the ticket issued to them contravened certain statutory provisions of the Merchant Shipping Act, 1894, and (2) the negligence complained of was not negligence in the navigation of the ship. Since that case, however, the conditions have been framed to cover all negligent acts, and though no conditions can displace statutory provisions with which they may conflict, the conditions now in vogue will disentitle any passenger to claim damages where he has no statutory protection.

Hon. Mr. O'Regan

PASSENGERS' RIGHTS CONSERVATION

ANALYSIS

Title.

1. Short Title.

2. Interpretation.

3. Exculpatory conditions endorsed on passengers' tickets or otherwise expressed invalid.

4. The provisions of this Act to prevail in the event of conflict with the provisions of other statutes.

A BILL INTITULED

AN Act to restore and ensure the Rights of Passengers to claim damages for injury to Person or Property. Title.

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

1. This Act may be cited as the Passengers' Rights Conservation Act, 1946. Short Title.

2. In this Act, unless a different intention appear, "Passenger" means any person who has entered into a contract of conveyance by land, sea, or air. Interpretation.

3. From and after the passing of this Act, any passenger who has suffered loss or damage in person or property by reason of any negligence on the part of the contractee, his agents or servants, shall be entitled to maintain any action for damages notwithstanding any condition expressed or implied, and Exculpatory conditions endorsed on passengers' tickets or otherwise expressed invalid.

notwithstanding that any ticket or other document evidencing the contract may have been signed by the passenger, and no such condition shall be pleaded by way of defence to such action.

The provisions of this Act to prevail in the event of conflict with the provisions of other statutes.

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c. 62 (Imperial)

See Reprint
of Statutes,
Vol. VIII,
p. 249

4. Should there be any conflict between the provisions of this Act and the provisions of the Merchant Shipping Act, 1894 (Imperial), or those of the Shipping and Seamen Act, 1908, the provisions of this Act shall prevail.

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