

DEATHS BY ACCIDENTS COMPENSATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Deaths by Accidents Compensation Act 1952.

Clause 1 relates to the Short Title to the Bill.

Clause 2: Section 24 of the Limitation Act 1950 extends every limitation period prescribed by or under that Act if, at the date when any right of action accrued, the person to whom it accrued was under the disability of infancy or unsoundness of mind. There is no provision in the Deaths by Accidents Compensation Act 1952 for a corresponding extension of the limitation period in cases where a dependant within the meaning of that Act is under such a disability. Normally the position of disabled dependants is adequately safeguarded, because under section 6 of the Act the primary obligation to bring any action which lies under the Act is placed on the executor or administrator. There is, however, need to preserve the rights of disabled dependants by extending the limitation period in cases where there has been no grant of administration (other than a grant made more than five years from the date of the death of the person deceased), and no proceedings have been commenced on behalf of the dependants. The clause rewrites section 10 of the Deaths by Accidents Compensation Act 1952 so as to provide accordingly.

Hon. Mr Hanan

**DEATHS BY ACCIDENTS COMPENSATION
AMENDMENT**

ANALYSIS

Title

1. Short Title
2. Limitation of actions

A BILL INTITULED

**An Act to amend the Deaths by Accidents Compensation Act
1952**

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

1. Short Title—This Act may be cited as the Deaths by
Accidents Compensation Amendment Act 1964, and shall be
read together with and deemed part of the Deaths by
10 Accidents Compensation Act 1952 (hereinafter referred to as
the principal Act).

2. Limitation of actions—The principal Act is hereby
amended by repealing section 10, and substituting the follow-
ing section:

15 “10. (1) Except as provided in this section, no action shall
be brought under this Act after the expiration of two years
from the date of the death of the deceased person.

2 *Deaths By Accidents Compensation Amendment*

“(2) Application may be made to the Court, after notice to the intended defendant, for leave to bring such an action at any time within six years from the date of the death of the deceased person; and the Court may, if it thinks it is just to do so, grant leave accordingly, subject to such conditions (if any) as it thinks it is just to impose, where it considers that the delay in bringing the action was occasioned by mistake or by any other reasonable cause or that the intended defendant was not materially prejudiced in his defence or otherwise by the delay. 5 10

“(3) Where any person who is under a disability at the date of the death of the deceased person is entitled, under the proviso to subsection (1) of section 6 of this Act, to bring an action in respect of that death, that action may be brought, without the leave of the Court, within two years from the date when he ceased to be under a disability or sooner died, or an application for leave to bring that action may be made under subsection (2) of this section within six years from the date when he ceased to be under a disability or sooner died, if when the action (without such leave) is commenced or the application is made, as the case may be,— 15 20

“(a) No other person has commenced an action under this Act in respect of the death of the deceased person or made an application for leave to bring such an action; and 25

“(b) No grant of administration and no order to or election by the Public Trustee to administer (other than a grant or order or election made more than five years from the date of the death of the deceased person) has been made in New Zealand in respect of the estate of the deceased person. 30

“(4) For the purposes of this section, a person shall be deemed to be under a disability while he is an infant or of unsound mind.”