

EMPLOYERS' LIABILITY.

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A BILL INTITULED

AN ACT to regulate and extend the Liability of Employers in Title.
respect of Injuries sustained by Workmen in their Employment.

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

1. The Short Title of this Act is "The Employers' Liability Short Title.
Act 1882 Amendment Act, 1888." It shall be construed as one with
"The Employers' Liability Act, 1882" (hereinafter called "the
principal Act").

10 2. The term "workman" shall include, besides the persons Definition of term
included in the definition in section two of the principal Act, seamen "workman."
serving on board of British ships registered at, trading with, or being
at any place within the jurisdiction of the colony, and all persons,
including omnibus and tramway servants, who have entered into or
15 work under a contract of service made with the employer, either
verbal or in writing, and whether the work be performed in the
employer's workshops or elsewhere, and whether involving manual
labour or not: Provided always that in the case of accidents to
20 seamen the right of action be limited to accidents occurring in ports
within the colony, or, occurring elsewhere than in the aforesaid ports,
be limited to accidents arising from defective equipment.

So much of section two of the principal Act as defines the expres- Definition of term
sion "person who has superintendence intrusted to him" as "a "superintendence."
person whose sole or principal duty is that of superintendence, and
25 who is not ordinarily engaged in manual labour" is hereby repealed.

3. From and after the passing of this Act all the provisions of Contract excluding
the principal Act and this Act shall have effect and be enforced by provisions of
every Court, notwithstanding any contract excluding all or any of the principal Act void.
25 provisions of the principal Act and this Act, or otherwise interfering
30 with the operation thereof, unless on entering into such contract or

agreement there was a valuable consideration in the opinion of the Court other than that of such workman being taken into or continued in the employment of the defendant.

Provided as follows:—

(1.) The provisions of this section shall apply only to cases in which the cause of action arises after the passing of this Act; and 5

(2.) In determining in any case the amount of compensation payable under the principal Act or this Act or both Acts, the Court shall take into consideration the value of any payment or contribution made by the employer to or for the person injured in respect of his injury, or, in case of the death of the person injured, to or for his personal representatives. 10

Liability of employer in certain cases not removed by reason of sub-contracts.

4. Wherever an employer enters into a contract, either written or verbal, with an independent contractor to do part of such employer's work, or wherever such contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or sub-contract shall not bar the liability of the employer in respect of injuries sustained by any of the workmen of such contractor or sub-contractor by reason of any defect in the condition of the ways, works, machinery, or plant, if such ways, works, machinery, or plant be the property of or furnished by the employer, and if such defect arose or had not been discovered or remedied owing to the negligence of the employer, or of some person intrusted by him with the duty of seeing that the ways, works, machinery, or plant were in proper condition. 15 20 25

But nothing in this Act shall take away or affect any right of action which any workman may have against his immediate employer, or any right of action which the principal employer may have against his contractor or sub-contractor. 30

Notification of accident.

5. The notice required by the sixth section of the principal Act may be given at any time within three months after the occurrence of the accident. The absence of, or any imperfection in, such notice shall not be a defence to the action, but shall be a ground for depriving the plaintiff of costs, if and so far as the Court in its discretion so directs. 35

Workman being illegitimate no bar to claim.

6. Where personal injury to a workman who is illegitimate results in death, the same rights of compensation shall exist for the benefit of his father or mother, or of brothers and sisters by the same father and mother, as if he and such brothers and sisters were legitimate. 40

Considerations in determining amount of compensation.

7. In determining in any case the amount of compensation payable by an employer, the Court shall take into consideration the value of any payment or contribution made by such employer to or for the injured person in respect of his injury, and also the value of any payment or contribution made by such employer to any insurance or compensation fund to the extent to which any person who would otherwise be entitled to compensation has received, or is entitled to receive, compensation out of such fund. 45 50

Workman knowing of defect, &c., not

8. In an action against an employer a workman shall not, by reason of his continuing in the employment of the employer with

knowledge of the defect, negligence, act, or omission which caused his injury, be deemed to have voluntarily incurred the risk of the injury.

deemed to have voluntarily incurred risk.

5 9. A workman shall not be entitled to any right of compensation or remedy against his employer in any case where he knew of the defect, negligence, act, or omission which caused his injury, and failed, without a reasonable excuse, to give or cause to be given, within a reasonable time, information thereof to his employer or to some person superior to himself in the service of his employer.

Workman to give notice of any defect, &c.

10 10. Where compensation is awarded in case of the death of a workman for an injury sustained by him in the course of his employment, the amount recovered, after deducting the costs not recovered from the defendant, may, if the Judge or Magistrate so directs, be divided between the wife, husband (where the deceased was a wife),
15 parents, and children of the deceased, in such shares as the Judge or Magistrate may determine.

Judge or Magistrate may divide compensation.

20 11. Notwithstanding the provisions of section five of the principal Act, if in the opinion of the Judge who tries the action, or, if the action is tried by a jury, in the opinion of the jury, the amount of three years' wages, calculated as directed by section five of the principal Act, is an inadequate compensation for the injury in respect of which the action is brought, then, upon an express finding to this effect, compensation may be awarded to the extent of a sum not exceeding *three hundred pounds*.

Removal of limit of sum recoverable as compensation.

25 12. An action under the principal Act and this Act shall lie, and may be maintained, against the representatives of a deceased employer.

Representatives of deceased employer may be sued.