

LIMITATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Limitation Act 1950.

Clause 1 relates to the Short Title to the Bill.

Clause 2: Subsection (7) of section 4 of the principal Act provides that the normal limitation period in connection with an action in respect of bodily injury shall be two years. This limitation period can be extended by the Court to a maximum of six years 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. It has been held that "mistake" in this context means mistake of fact and not mistake of law. The clause amends this subsection so as to provide that mistake of law (other than mistake as to the provisions of subsection (7) of section 4) as well as mistake of fact are grounds for extending the limitation period. In other words, ignorance of the limitation period will not be a ground for extension, but otherwise the difference between mistakes of law and mistakes of fact will be removed. The existing provision is to continue to apply to causes of action in respect of which an action or arbitration has been commenced before the passing of the Bill. In other cases where the cause of action accrued before the passing of the Bill, the subsection as amended is to apply.

Clause 3 repeals section 23 of the principal Act, which provides for a special limitation period of one year and the giving of special notice in cases involving the Crown, local authorities, and persons acting in execution of a statutory or other public duty. They will be placed in the same position as other members of the public in connection with limitation of actions and notices of cause of action. Section 23 will continue to apply where the cause of action accrued more than one year before the passing of this Bill or where an action or arbitration has been commenced before the passing of the Bill. In other cases where the cause of action accrued within the year preceding the passing of the Bill, the principal Act is to apply as if section 23 had been repealed before the cause of action accrued. Corresponding repeals were made in the United Kingdom by the Law Reform (Limitation of Actions) Act 1954, which followed recommendations in a report of a committee set up under the chairmanship of Lord Justice Tucker to investigate the law relating to limitation of actions.

Hon. Mr Hanan

LIMITATION AMENDMENT

ANALYSIS

Title

- | | |
|---|---|
| 1. Short Title | 3. Protection of person acting in
execution of statutory or other
public duty |
| 2. Limitation of actions in respect of
bodily injury | |

A BILL INTITULED

An Act to amend the Limitation Act 1950

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

1. **Short Title**—This Act may be cited as the Limitation
Amendment Act 1962, and shall be read together with and
deemed part of the Limitation Act 1950 (hereinafter referred
to as the principal Act).

- 10 **2. Limitation of actions in respect of bodily injury**—
(1) Section 4 of the principal Act is hereby amended by
inserting in the proviso to subsection (7), after the word
“mistake”, the words “ of fact or mistake of any matter of
law other than the provisions of this subsection”.
- 15 (2) In respect of any cause of action in respect of which
an action or arbitration has been commenced before the pass-
ing of this Act, the said proviso shall apply as if this section
had not been passed.

(3) In respect of any other cause of action which accrued before the passing of this Act, the said proviso shall apply as if this section had come into force before that cause of action accrued.

3. Protection of person acting in execution of statutory or other public duty—(1) Section 23 of the principal Act is hereby repealed. 5

(2) In respect of any cause of action which accrued more than one year before the passing of this Act, and any other cause of action in respect of which an action or arbitration has been commenced before the passing of this Act, the provisions of the principal Act shall apply as if the said section 23 continued in force. 10

(3) In respect of any other cause of action which accrued before the passing of this Act, the provisions of the principal Act shall apply as if the said section 23 had been repealed before that cause of action accrued. 15