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Compensation to Relatives (Amendment) Bill, 1942.

EXPLANATORY NOTE.

THE purposes of this Bill are—

- (a) to ensure that the rights conferred by the Compensation to Relatives Act of 1897 shall not be lost by reason of the fact that the wrongdoer dies before or at the same time as the person whose death gives rise to such rights.
- (b) to extend the class of dependants to include certain persons related illegitimately.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1942.

A BILL

To amend the Compensation to Relatives Act of 1897, as amended by subsequent Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Compensation to Relatives (Amendment) Act, 1942." Short title and citation.

(2) The Compensation to Relatives Act of 1897, as amended by subsequent Acts and by this Act, may be cited as the Compensation to Relatives Act, 1897-1942.

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2. The Compensation to Relatives Act of 1897, as amended by subsequent Acts, is amended—

Amendment of Act No. 31, 1897.

(a) by inserting at the end of section four the following words:—

Sec. 4. (Action for benefit of certain relations.)

5 No action brought for the benefit of an illegitimate child of a deceased person shall be entertained unless—

cf. Act No. 18 of 1939 (S.A.), s. 5.

(a) during the lifetime of the deceased person—

10 (i) the deceased person had signed an agreement for the support of the illegitimate child; or

15 (ii) an affiliation order had been made against him in respect of the illegitimate child; or

(b) at the time of the act, neglect or default which caused the death of the deceased person, the deceased person stood in loco parentis to the illegitimate child.

20 (b) (i) by inserting at the end of subsection one of section 6c the words “and shall be enforceable as provided in this section”;

Sec. 6c. (Survival of action.)

(ii) by inserting next after the same subsection the following new subsection:—

25 (1A) Where the wrongdoer dies before or at the same time as the person whose death is caused by the wrongful act, neglect or default (in this section hereinafter referred to as “the person deceased”), every action and cause of action under this Act which would have subsisted against the wrongdoer (if his death had not ensued) shall be deemed to subsist and shall be enforceable as provided in this section.

35 (iii) by inserting in subsection two of the same section after the words “person deceased” the words “or if the wrongdoer dies before or at the same time as the person deceased.”

(c)

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(c) by inserting next after subsection one of section seven the following new subsection:—

Sec. 7.
(Construction of Act.)

5 (1A) (a) For the purposes of this Act a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was related to him illegitimately; and accordingly in deducing any relationship which under this Act is included within the meaning of the expressions "parent" and "child" any illegitimate person shall be treated as being and as having been the legitimate offspring of his mother and reputed father.

cf. Act No. 18 of 1939 (S.A.), s. 4.

10 (b) Paragraph (a) of this subsection shall not apply in relation to an action in respect of the death of any person before the commencement of the Compensation to Relatives (Amendment) Act, 1942.

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