

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1925.

A BILL

For the protection of infants in regard to damages or compensation recovered or awarded, and to settlements and compromises of claims by them; to amend the Common Law Procedure Act, 1899; the District Courts Act, 1912, and certain other 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. This Act may be cited as the "Damages (Infants) Act, 1925." Short title.

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2. (1) This Act does not apply to claims made or compensation awarded under the Workmen's Compensation Act, 1916, or any Act amending or replacing that Act. Application of Act.

(2) This Act does not affect the provisions of section sixteen of the Infant's Custody and Settlements Act of 1899, section two hundred and forty of the Crown Lands Consolidation Act, 1913, or section nine of the Closer Settlement (Amendment) Act, 1914.

(3) This Act extends to any action brought under the Compensation to Relatives Act of 1897.

3. Where, in any action or matter in the Supreme Court or any district court, money or damages or compensation is claimed by or on behalf of an infant suing either alone or in conjunction with another party, the following provisions shall apply :— Settlement of action by infant to be subject to sanction of court.

- (a) No settlement, or compromise of, or acceptance of money paid into court in such action or matter, whether before, at, or after trial, shall, as regards the claim of the infant, be valid without the sanction of the court in which the action or matter is instituted.
- (b) No money or damages or compensation recovered in such action or matter, whether by verdict or by settlement, compromise, or payment into court or otherwise, in respect of the claim of the infant, shall be paid to the plaintiff or to his next friend or solicitor unless the court so directs.
- (c) All money, damages, or compensation so recovered shall, unless the court otherwise directs, be paid to the Public Trustee.

4. (1) Any sum so paid to the Public Trustee shall, subject to any general or special direction of the court as to the payment of costs or otherwise, be held and applied by him in such manner as he shall think fit for the maintenance and education or otherwise for the benefit of the plaintiff. Application of moneys by Public Trustee.

(2) The Public Trustee in any case in which moneys are paid to him under this Act may at any time and from time to time request a judge of the Supreme Court

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Court to give him directions as to the administration of the money or to vary directions which may already have been given in regard thereto, or to determine any matter relating thereto, and any direction or determination of the judge shall, if given effect to by the Public Trustee, exonerate him from any claim or demand by any person whomsoever.

(3) The provisions of section fifty-nine of the Public Trustee Act, 1913, shall extend to the making of regulations fixing the scale of commission and other charges to be made by the Public Trustee in respect of moneys paid to him under this Act.

5. (1) In any case in which the court is authorised by this Act to give any sanction or directions, the jurisdiction of the court may be exercised by any judge thereof. Applications to court.

(2) Any application made to the court or a judge under this Act shall be made as prescribed by rules of court, and, until such rules are made, shall be made upon summons in chambers.

6. (1) Nothing in this Act shall prejudice the lien of a solicitor for costs.

(2) The costs of the infant of and incidental to the settlement or compromise for which the sanction of a judge is sought under this Act may be assessed by the judge to whom the application is made, or he may direct that such costs be taxed by the proper officer, and the costs so assessed or taxed shall be payable out of the moneys payable in such manner and by such person as the judge may direct.

- (3) In the case of an action or matter—
 - (a) the costs of the plaintiff, or if more than one, of all the plaintiffs, in the action or matter or incident to the claims therein or consequent thereon shall be taxed both as between party and party and as between solicitor and client;
 - (b) the respective amounts and the difference, if any, and the proportion of such difference, if any, payable by or out of the moneys of the infant, shall be certified by the taxing officer;
 - (c)

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- (c) no costs other than those certified to be so payable shall be payable to the solicitor for the plaintiff by or out of the moneys of the infant ;
 - (d) the result of any such taxation shall be notified to the Public Trustee by the taxing officer.
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