

EMPLOYEES' INDEMNITY BILL

EXPLANATORY NOTE

THE decision in the case of *Lister v. Romford Ice and Cold Storage Co. Ltd.* [1957] 1 All E.R. 125 has drawn attention to the extent to which employees can be held liable for negligent acts and omissions arising out of and in the course of their employment, even in cases where the employer is covered by insurance. This Bill protects employees in such cases in respect of liability for personal injury.

Clause 1 relates to the Short Title.

Clause 2 declares that the Bill shall bind the Crown.

Clause 3 provides that where any employee, by a negligent act or omission arising out of and in the course of his employment, causes injury to or the death of another person, whether a fellow employee or not, and the employer is in any way liable apart from this clause in respect of the injury or death,—

(a) The employer shall have no right of action, whether for damages or indemnity or contribution or otherwise, against the employee in respect of the injury or death; and

(b) The employer shall indemnify the employee against all liability for causing the injury or death:

Provided that the foregoing provisions shall not apply in any case where the negligent act or omission was attributable to the serious and wilful misconduct of the employee.

The proviso is adapted from section 34 of the Workers' Compensation Act 1956. The clause is to apply in every case, notwithstanding anything to the contrary in section 17 of the Law Reform Act 1936 or in any contract between the employee and his employer, and whether or not the employer is insured against liability.

Clause 4 makes it clear that section 125 of the Workers' Compensation Act 1956 is to be read subject to the provisions of this Bill.

Hon. Mr Mason

EMPLOYEES' INDEMNITY

ANALYSIS

Title	2. Act to bind the Crown
1. Short Title	3. Restriction of liability of employees
	4. Consequential amendment

A BILL INTITULED

An Act to effect reforms in the law relating to the liability of employees

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 Employees' Indemnity Act 1958.

2. Act to bind the Crown—This Act shall bind the Crown.

10 **3. Restriction of liability of employees**—(1) Where any employee, by a negligent act or omission arising out of and in the course of his employment, causes injury to or the death of another person, whether a fellow employee or not, and the employer is in any way liable apart from this section in
15 respect of the injury or death,—

(a) The employer shall have no right of action, whether for damages or indemnity or contribution or otherwise, against the employee in respect of the injury or death; and

(b) The employer shall indemnify the employee against all liability for causing the injury or death:

Provided that the provisions of this subsection shall not apply in any case where the negligent act or omission was attributable to the serious and wilful misconduct of the employee. 5

(2) The provisions of this section shall apply in every such case, notwithstanding anything to the contrary in section seventeen of the Law Reform Act 1936 or in any contract between the employee and his employer, and whether or not the employer is insured against liability. 10

4. Consequential amendment—Section one hundred and twenty-five of the Workers' Compensation Act 1956 is hereby amended by inserting, before the word "Where", the words "Subject to the provisions of the Employees' Indemnity Act 15 1958".