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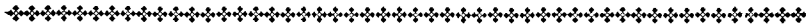
ANNO SEPTIMO

GEORGI VI. REGIS.

No. 48.

## ANALYSIS.

1. Short title.
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AN ACT to repeal the *Employers' Liability Act* 1895, and to provide for the Abolition of the Defence of common employment in actions by Workers against Employers.

A.D.

1943.

[16 November, 1943.]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1** This Act may be cited as the *Employers' Liability Act* Short title. 1943.

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**2** The *Employers' Liability Act 1895*, is hereby repealed.Repeal of 59  
Vict. No. 25.  
Interpretation.**3** In this Act unless the contrary intention appears—

“Worker” means any person who has entered into, or works under, a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise, and whether the contract is express or implied, or is oral or in writing, and, used in relation to a person who has been injured and is dead, the term includes the legal personal representative of such person.

Application  
of this Act  
to employees  
of the  
Crown.**4** This Act shall apply to any worker employed by or on behalf of the Crown in relation to this State in the same manner as it would apply to such worker if employed by a private person.Abolition of  
defence of  
common  
employment.**5** Where personal injury is suffered by a worker by reason of the negligence of his employer or any person employed by him in relation to the employment the employer shall be liable in damages in respect of such injury and it shall be no defence in any proceedings in respect thereof that the person whose negligence caused such injury was engaged in the same employment as such worker.Compulsory  
insurance  
of workers.**6**—(1) The provisions of section thirty-four of the *Workers' Compensation Act 1927* shall apply to every employer for the purposes of this Act in like manner and in every respect as if the liability of the employer under this Act were specifically included therein.

(2) In the application of those provisions for the purposes of this Act—

I. “Worker” shall include all workers employed by the employer: and

II. The policy of insurance prescribed shall not be required to provide for the payment by the insurer of any sum exceeding—

(a) Two thousand pounds in respect of any claim in respect of any one person:

(b) Twenty thousand pounds in respect of all claims arising out of the same accident in respect of more persons than one—

inclusive, in each case, of all costs in relation to such claims respectively.

Limit of  
time for  
recovery of  
damages.**7**—(1) An action for the recovery under this Act of damages for an injury shall not be maintainable unless notice in writing that injury has been sustained is given within three months and the action is commenced within six months from the occurrence of the accident causing the injury, or in case of death within twelve months from the time of death.

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(2) In case of death the want of such notice shall be no bar to the maintenance of such action if the judge shall be of opinion that there was reasonable excuse for such want of notice. A.D. 1943.

(3) The want of a notice as provided by subsection (1) hereof shall not be a bar to the maintenance of the action if—

- I. The employer or his manager was aware of the injury sustained by the workman at any time within the said period of three months: or
- II. The workman was prevented from giving such notice by illness arising from the accident causing his injury or by the absence of the employer or his manager—

and if a judge in chambers certifies before the action is commenced that the employer will not be prejudiced in his defence by want of such notice.

**8**—(1) Notice in respect of an injury under this Act shall give the name and address of the person injured and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or, if there is more than one employer, upon one of such employers. Mode of serving notice of injury.

(2) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

(3) The notice may also be served by post by a registered letter.

(4) Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or, if there be more than one office, any one of the offices of such body.

(5) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the judge who tries the action arising from the injury mentioned in the notice shall be of opinion that the defendant in the action is prejudiced in his defence by such defect or inaccuracy, and that the defect or inaccuracy was for the purpose of misleading.

