



ANALYSIS

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1973-74, No. 40

An Act to make provision for the protection against liability of the Crash, Fire, Rescue and Security Service of the Civil Aviation Division of the Ministry of Transport and related matters

(3 May 1974)

BE IT ENACTED by the Legislative Assembly in Session assembled, and by the authority of the same, as follows:

1. Short Title – This Act may be cited as the Crash, Fire, Rescue and Security Service (Protection against Liability) Act 1973-74.

2. Interpretation - In this Act, unless the context otherwise requires,-

“Crash, Fire, Rescue and Security Service”: means the Crash, Fire, Rescue and Security Service of the Civil Aviation Division of the New Zealand Ministry of Transport:

“Crown” includes the Government of the Cook Islands and New Zealand:

“Department of State” includes any Department of State of the Cook Islands or of New Zealand.

Price \$1.50

3. Damage in fire fighting to be damage by fire within meaning of fire policy - Where damage to property is caused by any officer or employee of the Crash, Fire, Rescue and Security Service in the exercise in good faith of his powers, duties, or obligations at or in connection with any fire or suspected fire the damage shall be deemed to be damage by fire within the meaning of any policy of insurance against fire covering the damaged property:

Provided that, where any fire or suspected fire is earthquake fire within the meaning of any policy or contract of insurance against damage by earthquake, that damage shall be deemed to be damage by earthquake fire for the purposes of that policy or contract.

4. Protection against liability of Crash, Fire, Rescue and Security Service - (1) No action or proceedings shall be brought against the Crown or any Department of State or any officer or employee of the Crash, Fire, Rescue and Security Service to recover damages for any damage to property occasioned by any officer or employee of the Crash, Fire, Rescue and Security Service in the exercise in good faith of his powers, duties, or obligations at or in connection with any fire or suspected fire, or in the performance in good faith of any service for the protection of human life which is otherwise endangered:

Provided that nothing in this subsection shall relieve any of them against, or in any way affect, the liability of any of them for any damage to property caused by or in connection with the use of any fire engine or other motor vehicle for transport purposes.

Provided further that nothing in this subsection shall relieve the Crown or any Department of State against, or in any way affect, the liability of any of them for any damage to uninsured property caused by any officer or vehicle of the Crash, Fire, Rescue and Security Service while attempting to reach the scene of the fire, suspected fire, or otherwise.

(2) No action or proceedings shall be brought against the Crown or any Department of State or any officer or employee of the Crash, Fire, Rescue and Security Service to recover damages for any loss or damage or bodily injury or death which is due directly or indirectly to fire or to the performance in good faith of any service for the protection of human life which is otherwise endangered, where the loss or damage or bodily injury or death is also due to or contributed to by any officer or employee of the Crash, Fire, Rescue and Security Service taking any action, or failing to take any action, while he is acting in good faith in performance of the said service for the protection of human life which is otherwise endangered.

(3) Nothing in subsections (1) or (2) of this section shall in any way affect any liability under the Workers' Compensation Ordinance 1965.

(4) Nothing in subsection (2) of this section shall restrict the bringing of any action to recover damages for the bodily injury or death of any officer or employee of the Crash, Fire, Rescue and Security Service which was due directly or indirectly to any fire, or to the performance in good faith of any service for the protection of human life which is otherwise endangered, where a negligent act or omission of any other officer or employee of the Crash, Fire, Rescue and Security Service (being an act or omission which preceded the arrival of the injured or deceased officer or employee at the fire or at the place where the said service was being performed) also materially contributed to the bodily injury or death:

Provided that, in any action where the bodily injury or death was due directly or indirectly to the performance of any service for the protection of human life which is otherwise endangered, in determining whether or not any act or omission that materially contributed to the bodily injury or death was negligent, if the question arises as to whether or not there has been negligence in omitting to train the injured or deceased person properly to perform the service or do the act, or in omitting to train any other person properly to perform the service or do the act or supervise its performance or doing, the Court shall have regard to whether or not he could reasonably have been expected to have been so trained.

This Act is administered by the Justice Department.