



# **Civil Aviation (Carriers' Liability) Act 1964**

**Current as at 1 July 2003**

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Queensland

# Civil Aviation (Carriers' Liability) Act 1964

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# Civil Aviation (Carriers' Liability) Act 1964

## An Act relating to the carriage of passengers by air

### 1 Short title

This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1964*.

### 2 Interpretation

(1) In this Act—

*applied provisions* means the provisions of the Commonwealth Act and the Commonwealth Regulations as they apply under this Act as laws of the State.

*Commonwealth Act* means the *Civil Aviation (Carriers' Liability) Act 1959* (Cwlth).

*Commonwealth Regulations* means the regulations in force under the Commonwealth Act for the purposes of part 4 or 4A of the Commonwealth Act, other than regulations made for the purposes of section 41 of the Commonwealth Act.

(2) The provisions of sections 5, 26 and 41B of the Commonwealth Act shall apply, by virtue of this Act, to the interpretation of section 4 of this Act in like manner as they apply to the interpretation of section 27 of the Commonwealth Act.

### 3 Act to bind Crown

This Act shall bind the Crown.

#### **4 Carriage to which Act applies**

- (1) This Act shall apply to the carriage of a passenger where the passenger is or is to be carried in an aircraft being operated by the holder of an airline licence or a charter licence in the course of commercial transport operations under a contract for the carriage of the passenger—
  - (a) between a place in Queensland and another place in Queensland; or
  - (b) in the case of the holder of a charter licence—beginning at a place in Queensland and ending at that place without any intermediate landing or landings at any other place or places.
- (2) However, this Act does not apply to—
  - (a) carriage to which part 4 of the Commonwealth Act applies; or
  - (b) carriage to which the Warsaw Convention, the Hague Protocol or the Guadalajara Convention applies; or
  - (c) carriage to which the provisions of another convention, protocol or treaty apply if the provisions have the force of law under the Commonwealth Act and are prescribed for the purposes of this paragraph by a regulation under this Act.

#### **5 Application of provisions of pts 4 and 4A of Commonwealth Act**

- (1) The provisions of parts 4 and 4A of the Commonwealth Act (other than sections 27, 40, 41 and 41J(8)) and subject to any regulations made by the Governor in Council pursuant to section 7 of this Act the approved provisions of the Commonwealth Regulations shall apply to and in relation to carriage to which this Act applies, and matters connected with such carriage, as if those provisions were incorporated in this Act and as if, in those provisions as so incorporated—
  - (a) general references to part 4 of the Commonwealth Act were references to this Act; and

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- (b) a reference in 1 of those provisions to another of those provisions were a reference to that other provision as applying by virtue of this Act; and
- (c) the reference in section 29(5) of the Commonwealth Act to carriage referred to in section 27(4) of the Commonwealth Act were a reference to the carriage of a passenger where—
- (i) the carriage of the passenger between 2 places was to be performed by 2 or more carriers in successive stages; and
  - (ii) the carriage has been regarded by the parties as a single operation, whether it has been agreed upon by a single contract or by 2 or more contracts; and
  - (iii) this Act would have applied to that carriage if it had been performed by a single carrier under a single contract; and
- (d) the references in the Commonwealth Act to the regulations relating to certain matters were references to the provisions of the Commonwealth Regulations relating to those matters as applying by virtue of this Act; and
- (e) for a passenger for whom compensation is paid under the *Workers' Compensation and Rehabilitation Act 2003*—the reference in the Commonwealth Act, section 37 to the passenger's employer were a reference to an insurer.
- (2) In this section—

*insurer* means an insurer under the *Workers' Compensation and Rehabilitation Act 2003*.

*the approved provisions of the Commonwealth Regulations* means all such provisions of the Commonwealth Regulations as the Governor in Council (who is hereby thereunto authorised) by notice published in the gazette approves for the purposes of this Act.

## **6 Stowaways**

The provisions of section 42 of the Commonwealth Act shall apply in relation to a person who, within Queensland travels in an aircraft without the consent of the carrier as if those provisions were incorporated in this Act and as if, in those provisions as so incorporated, a reference to a part or parts of the Commonwealth Act were a reference to this Act.

### **6A Administration of the applied provisions as Commonwealth laws**

- (1) It is Parliament's intention that the applied provisions should be administered and enforced as if they were provisions applying as laws of the Commonwealth instead of being provisions applying as laws of the State.
- (2) To that end—
  - (a) Commonwealth authorities have the same powers to enforce the applied provisions as they have to enforce the Commonwealth Act and the Commonwealth Regulations; and
  - (b) the laws of the Commonwealth apply to offences against the applied provisions as if they were offences against the Commonwealth Act or the Commonwealth Regulations; and
  - (c) the laws of the State do not apply to offences against the applied provisions.
- (3) Despite subsection (2)(b) and (c), the *Penalties and Sentences Act 1992*, section 181A applies to offences against the applied provisions.
- (4) In applying the applied provisions under this Act, any function or power conferred on a Commonwealth authority under those provisions may be exercised or performed (in respect of carriage to which this Act applies and matters connected with that carriage) by that Commonwealth authority.



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**6B Alternative arrangements for administration of applied provisions**

- (1) A regulation may provide that—
  - (a) any or all of the provisions of section 6A do not have effect; and
  - (b) any or all of the functions or powers conferred on a Commonwealth authority under the applied provisions may be exercised or performed by a person or authority specified in the regulation.
- (2) To the extent that, because of a regulation under subsection (1), the laws of the Commonwealth do not apply to an offence against the applied provisions, the offence is to be regarded as an indictable offence under the laws of the State, but may, with the consent of the prosecutor and defendant, be dealt with summarily.

**7 Regulations**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe all matters which by the Commonwealth Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Commonwealth Act, and the Commonwealth Regulations shall in so far as they are inconsistent with any regulations made by the Governor in Council cease to apply to or in relation to carriage to which this Act applies and to matters connected with such carriage.
- (3) Where regulations are made by the Governor in Council pursuant to subsection (2) then any reference in the Commonwealth Act to regulations made thereunder shall, in respect of the application of the Commonwealth Act by virtue of this Act, be construed as including a reference to regulations made by the Governor in Council and as excluding a reference to any Commonwealth Regulations inconsistent therewith.

- (4) The *Statutory Instruments Act 1992*, sections 49 and 50 apply to a Commonwealth Regulation made after the commencement of this subsection as if—
- (a) the Commonwealth Regulation were subordinate legislation; and
  - (b) the reference in section 49(1) to the gazette were a reference to the Commonwealth gazette; and
  - (c) a reference to subordinate legislation ceasing to have effect were a reference to the regulation ceasing to have effect by virtue of this Act.