

## DAMAGE BY AIRCRAFT ACT.

### Act No. 46, 1952.

**Elizabeth II,** An Act to make provision in respect of liability for  
**No. 46, 1952.** damage caused by aircraft; and for purposes  
 connected therewith. [Assented to, 28th  
 November, 1952.]

**B**E it enacted by the Queen's Most Excellent Majesty,  
 by and with the advice and consent of the Legis-  
 lative Council and Legislative Assembly of New South  
 Wales in Parliament assembled, and by the authority of  
 the same, as follows:—

**Short  
 title.**

**1.** This Act may be cited as the "Damage by Aircraft  
 Act, 1952".

**Liability  
 in respect  
 of trespass,  
 nuisance  
 and surface  
 damage by  
 aircraft.**

**12, 13 & 14  
 Geo. VI,  
 c. 67, s. 40.**

**cf. N.Z. 1948  
 No. 12, s. 5  
 (8).**

**2.** (1) No action shall lie in respect of trespass or in  
 respect of nuisance, by reason only of the flight of an  
 aircraft over any property at a height above the ground,  
 which, having regard to wind, weather, and all the  
 circumstances of the case is reasonable, or the ordinary  
 incidents of such flight, so long as the provisions of the  
 Air Navigation Regulations are duly complied with.

(2) Where material loss or damage is caused to any  
 person or property on land or water by, or by a person  
 in, or an article or person falling from, an aircraft while  
 in flight, taking off or landing, then unless the loss or  
 damage was caused or contributed to by the negligence  
 of the person by whom it was suffered, damages in  
 respect of the loss or damage shall be recoverable without  
 proof of negligence or intention or other cause of action,  
 as if the loss or damage had been caused by the wilful act,  
 neglect, or default of the owner of the aircraft:

Provided that where material loss or damage is caused  
 as aforesaid in circumstances in which—

(a) damages are recoverable in respect of the said  
 loss or damage by virtue only of the foregoing  
 provisions of this subsection; and

(b)

(b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage;  
 the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

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(3) Where the aircraft concerned has been bona fide demised, let or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

12, 13 & 14  
 Geo. VI,  
 c. 67, s. 49  
 (2).  
 cf. N.Z.  
 1948  
 No. 12, s. 5  
 (4).

(4) This section shall bind the Crown.

(5) In this section—

“Air Navigation Regulations” means the Air Navigation Regulations made under the Air Navigation Act 1920-1950 of the Parliament of the Commonwealth and includes such of the provisions of those Regulations as are applicable to and in respect of air navigation within New South Wales by virtue only of the Air Navigation Act, 1938-1947;

“article” includes mail or animal;

cf. 12, 13 &  
 14 Geo. VI,  
 c. 67,  
 s. 63 (4).

“loss or damage” includes, in relation to persons, loss of life and personal injury.

cf. *Ibid.* s. 63  
 (3).