

# Civil Aviation (Carriers' Liability) Act 1967 No 64

[1967-64]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# Civil Aviation (Carriers' Liability) Act 1967 No 64



New South Wales

An Act relating to the carriage of passengers and baggage by air; and for purposes connected therewith.

## 1 Name of Act and commencement

- (1) This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1967*.
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

## 2 Definitions

- (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 authority** means an authority or officer of the Commonwealth.

**the Commonwealth Act** means the *Civil Aviation (Carriers' Liability) Act 1959* of the Parliament of the Commonwealth of Australia and, if that Act is amended, includes that Act as amended from time to time.

**the Commonwealth Regulations** means the regulations from time to time in force under the Commonwealth Act for the purposes of Part IV or IVA of that Act, other than regulations made for the purposes of section 41 of that Act.

- (2) The provisions of sections 5, 26 and 41B of the Commonwealth Act apply, by virtue of this Act, to the interpretation of this Act.

## 3 Act to bind Crown

This Act binds the Crown.

## 4 Carriage to which Act applies

The carriage to which this Act applies is 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 between a place in the State and another place in the State or from a place in the State back to that place, not being:

- (a) carriage to which Part IV 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, being provisions that have the force of law under the Commonwealth Act and that are prescribed for the purposes of this paragraph by the regulations under this Act.

## **5 Application of provisions of Parts IV and IVA of the Commonwealth Act**

The provisions of Parts IV and IVA of the Commonwealth Act (other than sections 27, 40, 41 and 41J (8)) and, subject to section 7 of this Act, the provisions of the Commonwealth Regulations apply to and in relation to carriage to which this Act applies and matters connected with the carriage, as if those provisions were incorporated in this Act and as if, in those provisions as so incorporated:

- (a) general references to Parts IV and IVA of the Commonwealth Act were references to this Act,
- (b) a reference in one of those provisions to another of those provisions were a reference to that other provision as applying by virtue of this Act,
- (c) the reference in subsection (5) of section 29 of the Commonwealth Act to carriage referred to in subsection (4) of section 27 of that Act were a reference to the carriage of a passenger where:
  - (i) the carriage of the passenger between two places was to be performed by two or more carriers in successive stages,
  - (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 two 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.

## **6 Stowaways**

The provisions of section 42 of the Commonwealth Act apply in relation to a person who, within the State, 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 the intention of Parliament 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) In the application of provisions of the Commonwealth Act and the Commonwealth Regulations under this Act, any function or power conferred on a Commonwealth authority by or 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.

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

- (1) The regulations 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 by or under the applied provisions may be exercised or performed by a person or authority specified in the regulations.
- (2) To the extent that, because of regulations referred to in 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 the defendant, be dealt with summarily.

### **7 Regulations**

- (1) Any Commonwealth Regulations in force at the commencement of this Act shall be laid before both Houses of Parliament within fourteen sitting days after that commencement if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.
- (2) Any Commonwealth Regulation made after the commencement of this Act shall be

laid before both Houses of Parliament within fourteen sitting days after the notification in the Commonwealth of Australia Gazette of the making thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

**Editorial note—**

See *Civil Aviation (Carriers' Liability) Regulations* notified in the Commonwealth of Australia Gazette on 22 January 1991 and amended in the Commonwealth of Australia Gazettes on 18 October 1994, 6 December 1995, 30 October 1996 and 12 August 1998.

- (3) The Governor may in relation to carriage to which this Act applies make regulations prescribing all matters which by the Commonwealth Act (including section 40) 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 cease to apply in relation to carriage to which this Act applies and to matters connected with that carriage.
- (4) (Repealed)
- (5) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after any Commonwealth Regulation has been laid before it disallowing the Commonwealth Regulation, or part thereof, the Commonwealth Regulation, or part thereof, shall thereupon cease to apply by virtue of this Act.
- (6) Where regulations are made by the Governor pursuant to subsection (3), 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 and as excluding a reference to any Commonwealth Regulation inconsistent therewith.
- (7) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.