

# Damage by Aircraft Act 1952 No 46

[1952-46]



New South Wales

## Status Information

### Currency of version

Repealed version for 28 November 1952 to 5 January 2012 (accessed 19 December 2024 at 20:59)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Repeal**

The Act was repealed by Sch 5 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2011 No 62](#) with effect from 6.1.2012.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 6 January 2012

# Damage by Aircraft Act 1952 No 46



New South Wales

## Contents

<b>Long title</b> .....	3
1 Name of Act.....	3
2 Liability in respect of trespass, nuisance and surface damage by aircraft .....	3

# Damage by Aircraft Act 1952 No 46



New South Wales

An Act to make provision in respect of liability for damage caused by aircraft; and for purposes connected therewith.

## 1 Name of Act

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

## 2 Liability in respect of trespass, nuisance and surface damage by aircraft

- (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) 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.

- (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.

(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.

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