

South Australia

## Civil Aviation (Carriers' Liability) Act 1962

An Act relating to the carriage of passengers by air.

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### Contents

- 1 Short title
- 3 Interpretation
- 4 Act to bind Crown
- 5 Carriage to which Act applies
- 6 Application of Parts 4 and 4A of the Commonwealth Act
- 7 Stowaways
- 7A Administration of Commonwealth/State scheme as Commonwealth Act
- 8 Regulations

### Legislative history

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### The Parliament of South Australia enacts as follows:

#### 1—Short title

This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1962*.

#### 3—Interpretation

- (1) In this Act—

***applied provisions*** means the provisions of the Commonwealth Act as they apply under this Act as a law of the State;

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

***Commonwealth authority*** means an authority or officer of the Commonwealth;

***the Commonwealth Regulations*** means the regulations from time to time 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;

***Commonwealth/State scheme*** means—

- (a) the Commonwealth Act; and
- (b) the provisions of the Commonwealth Act as applied by this Act and the corresponding legislation of other States;

***State*** includes a Territory;

*State authority* means an authority or officer of this State.

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

#### **4—Act to bind Crown**

This Act shall bind the Crown.

#### **5—Carriage to which Act applies**

- (1) This Act applies to the carriage of a passenger, under a contract for the carriage of the passenger, to or from a place in South Australia in an aircraft operated by the holder of an airline licence or a charter licence in the course of commercial transport operations.
- (2) However, this Act does not apply to the carriage of a passenger to or from a place in South Australia if—
  - (a) Part 4 of the Commonwealth Act applies, of its own force, to the carriage of the passenger; or
  - (b) provisions of a treaty, convention or protocol that have the force of law under the Commonwealth Act apply to the carriage of the passenger.

#### **6—Application of Parts 4 and 4A of the Commonwealth Act**

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 pursuant to section 8 of this Act the 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 Parts 4 and 4A 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 the Commonwealth 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.

## 7—Stowaways

The provisions of section 42 of the Commonwealth Act shall apply in relation to a person who, within South Australia, 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.

### 7A—Administration of Commonwealth/State scheme as Commonwealth Act

- (1) It is the intention of the Parliament that the Commonwealth/State scheme, to the extent it operates by force of this Act, should be administered and enforced in the same way as the Commonwealth Act and the Commonwealth Regulations.
- (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 as laws of South Australia to offences against the applied provisions as if they were offences against the Commonwealth Act or the Commonwealth Regulations and not offences against the laws of South Australia.
- (3) For the purposes of this section, a reference in a Commonwealth law to a provision of that or another Commonwealth law will be taken to be a reference to that provision as applying by virtue of this section.
- (4) Without limiting subsection (2)(b), the laws of the Commonwealth that apply to offences against the applied provisions under that subsection will be taken to include the following Acts (including an Act enacted in substitution for one of the following Acts), as amended from time to time:
  - (a) *Acts Interpretation Act 1901*;
  - (b) *Crimes Act 1914*;
  - (c) *Director of Public Prosecutions Act 1983*;
  - (d) *Evidence Act 1995*.
- (5) Nothing in this Act derogates from the powers of State authorities to enforce the applied provisions.
- (6) Without limiting the generality of subsection (5)—
  - (a) the Minister may apply to a court of competent jurisdiction for an injunction restraining a carrier from engaging in prohibited carriage; and
  - (b) for that purpose, a reference in section 41J of the Commonwealth Act, as applied and incorporated in this Act, to a Commonwealth authority will be taken to include a reference to the Minister.

## 8—Regulations

- (1) The Minister shall cause to be laid before both Houses of Parliament a copy of any Commonwealth Regulations made under the Commonwealth Act within fourteen days after the making thereof if Parliament is in Session and if not then within fourteen days after the commencement of the next Session of Parliament.
- (2) If either House of Parliament passes a resolution disapproving of all or any such Commonwealth Regulations of which resolution notice has been given at any time within fourteen sitting days of such House after such copy has been laid before it the Regulations so disapproved shall cease to have any effect to and in relation to carriage to which this Act applies but without affecting the validity, or curing the invalidity of anything done, or in the omission of anything in the meantime.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same Session of Parliament as that in which the regulation is laid before such House.

- (3) When a resolution has been passed as mentioned in subsection (2) hereof, notice of such resolution shall forthwith be published in the Gazette.
- (4) The Governor may in relation to carriage to which this Act applies make regulations prescribing 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 cease to apply to or in relation to carriage to which this Act applies and to matters connected with such carriage.
- (5) Where regulations are made by the Governor pursuant to subsection (4) of this section 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 and as excluding a reference to any Commonwealth Regulations inconsistent therewith.
- (6) The Governor may make regulations for the purposes of this Act.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1962	11	<i>Civil Aviation (Carriers' Liability) Act 1962</i>	25.10.1962	7.11.1963 ( <i>Gazette 7.11.1963 p1426</i> )
1971	4	<i>Civil Aviation (Carriers' Liability) Act Amendment Act 1971</i>	25.3.1971	25.3.1971
1996	24	<i>Civil Aviation (Carriers' Liability) (Mandatory Insurance and Administration) Amendment Act 1996</i>	2.5.1996	1.12.1996 ( <i>Gazette 28.11.1996 p1744</i> )
2002	37	<i>Statutes Amendment (Transport Portfolio) Act 2002</i>	28.11.2002	Pt 3 (ss 4 & 5)—3.7.2003 ( <i>Gazette 3.7.2003 p2877</i> )

### Provisions amended since 3 February 1976

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 2 of The Public General Acts of South Australia 1837-1975 at page 175.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	3.7.2003
s 3		
s 3(1)		
applied provisions	inserted by 24/1996 s 3(a)	1.12.1996
Commonwealth authority	inserted by 24/1996 s 3(b)	1.12.1996
the Commonwealth Regulations	amended by 24/1996 s 3(c)	1.12.1996
Commonwealth/ State scheme	inserted by 24/1996 s 3(d)	1.12.1996
State	inserted by 24/1996 s 3(d)	1.12.1996

## Civil Aviation (Carriers' Liability) Act 1962—3.7.2003

### Legislative history

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State authority	inserted by 37/2002 s 4	3.7.2003
s 3(2)	amended by 24/1996 s 3(e), (f)	1.12.1996
s 5	substituted by 24/1996 s 4	1.12.1996
s 6	amended by 24/1996 s 5	1.12.1996
s 7A	inserted by 24/1996 s 6	1.12.1996
s 7A(2)	amended by 37/2002 s 5(a), (b)	3.7.2003
s 7A(3)—(6)	inserted by 37/2002 s 5(c)	3.7.2003
s 8		
s 8(6)	inserted by 24/1996 s 7	1.12.1996

### Historical versions

Reprint No 1—1.12.1996