

Queensland



ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 24 of 1964

An Act Relating to the Carriage of Passengers by Air

[ASSENTED TO 9TH APRIL, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) **Short title.** This Act may be cited as "*The Civil Aviation (Carriers' Liability) Act of 1964.*"

(2) **Commencement of Act.** This Act shall come into operation on a date to be fixed by the Governor in Council by proclamation published in the *Gazette*.

2. **Interpretation.** (1) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

"the Commonwealth Act" means the *Civil Aviation (Carriers' Liability) Act 1959-1962* 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. of the Commonwealth Act, other than regulations made for the purposes of section forty-one of the Commonwealth Act.

(2) The provisions of sections five and twenty-six of the Commonwealth Act shall apply, by virtue of this Act, to the interpretation of section four of this Act in like manner as they apply to the interpretation of section twenty-seven of the Commonwealth Act.

**3. Act to bind Crown.** This Act shall bind the Crown.

**4. Carriage to which Act applies.** 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 in the course of commercial transport operations under a contract for the carriage of the passenger between a place in Queensland and another place in Queensland, not being carriage to which Part IV. of the Commonwealth Act applies or to which the Warsaw Convention, or the Warsaw Convention as affected by the Hague Protocol and by the Guadalajara Convention, applies.

**5. Application of provisions of Part IV. of Commonwealth Act.** The provisions of Part IV. of the Commonwealth Act (other than sections twenty-seven, forty and forty-one) and subject to any regulations made by the Governor in Council pursuant to section seven 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 IV. 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 sub-section (5) of section twenty-nine of the Commonwealth Act to carriage referred to in subsection (4) of section twenty-seven 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;
- (d) the references in section thirty-one of 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) in the case of a passenger in respect of whom compensation is paid out of the State Accident Insurance Fund created under “ *The Workers' Compensation Acts, 1916 to 1962,* ” the reference in section thirty-seven of the Commonwealth Act to the employer of such passenger were a reference to The State Government Insurance Office (Queensland).

In this section "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 forty-two 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.

**7. Regulations.** (1) All Commonwealth Regulations in force at the date of the commencement of this Act shall be laid before the Legislative Assembly within fourteen sitting days after such date if the Legislative Assembly is then in session and, if not, then within fourteen sitting days after the commencement of the next session.

Any Commonwealth Regulation made after the date of the commencement of this Act shall be laid before the Legislative Assembly within fourteen sitting days after the notification in the Commonwealth *Gazette* of the making thereof if the Legislative Assembly is then in session and, if not, then within fourteen sitting days after the commencement of the next session.

(2) The Governor in Council 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 in Council cease to apply to or in relation to carriage to which this Act applies and to matters connected with such carriage.

(3) Every regulation made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;
- (c) take effect from the date of such publication unless a later date is specified therein or in any other regulation for its commencement when in such event it shall take effect from such later date;
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session and, if not, then within fourteen sitting days after the commencement of the next session.

(4) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any Commonwealth Regulation or regulation made under this Act has been laid before it disallowing such Commonwealth Regulation or regulation made under this Act, or part thereof, such Commonwealth Regulation or regulation or part shall thereupon cease to have effect by virtue of this Act, but without prejudice to the validity of anything done in the meantime or to the application by virtue of this Act of any Commonwealth Regulation made thereafter or to the making of any further regulation under this Act.

(5) Where regulations are made by the Governor in Council pursuant to subsection (2) 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 in Council and as excluding a reference to any Commonwealth Regulations inconsistent therewith.