

CIVIL AVIATION (CARRIERS' LIABILITY) AMENDMENT BILL 1996

EXPLANATORY NOTES

Statement of Policy Objective

The policy objective of the Bill is to make Queensland Law complimentary to recently enacted Commonwealth Law in respect to a minimum standard of liability insurance cover required to be held by intrastate charter or regular public transport air service operators for passengers in the event of death or injury arising from an aircraft accident.

Achievement of Policy Objective

The policy objective is to be achieved by amending the *Queensland Civil Aviation (Carriers' Liability) Act 1964* in the portfolio of the Minister for Transport and Main Roads to reflect the following matters:—

- intrastate air service operators must compulsorily insure each passenger carried for hire or reward for death or injury suffered on an aircraft. [The minimum amount of cover required is currently \$180,000.00. The increase to \$500,000.00 is to be effected through a regulation amendment to be progressed jointly with this Bill];
- payment of a passenger's claim in the case of death or injury is not to be contingent upon the financial condition or solvency of the air service operator, nor is it to be affected by air service operators failure to comply with safety related requirements imposed by the Commonwealth *Civil Aviation (Carriers' Liability) Act 1959* or any other relevant law;
- intrastate air service operators are guilty of an offence if they carry passengers for hire or reward without appropriate liability insurance cover;

- intrastate air service operators must provide evidence to the Civil Aviation Safety Authority (CASA) that appropriate liability insurance has been issued;
- and
- CASA is responsible for the administration of the Act on behalf of the Government.

This is considered to be the most reasonable and appropriate approach to achieving the policy objective as development of the Bill requires consultation with industry ensuring their interests are considered. Also, while the Bill is to deliver national uniformity of legislation Queensland will retain its right to make law divergent from the Commonwealth should it so desire.

If Queensland were not to amend the *Civil Aviation (Carriers' Liability) Act 1964* it would be the only State or Territory not to have complementary laws with the Commonwealth. Queensland air travellers on intrastate air services would suffer in not having access to as comprehensive an insurance cover as their fellow Australians.

Estimated Costs for Government Implementation

No additional costs to government are anticipated.

Consistency with fundamental legislative principles

The provisions of the Bill are consistent with fundamental legislative principles as set out in the *Legislative Standards Act 1992*.

Consultation

Prior to the Commonwealth amending its own laws, the Commonwealth consulted with all aircraft operators and associations including General Aviation Australia, and the Aircraft Owners and Pilots Association during the development of its legislation.

Furthermore, since the Commonwealth legislation became operational in January 1996, the Commonwealth and CASA have distributed information packages to all Queensland air service operators, informing them of the new requirements and also the intent of the State to introduce complementary legislation by 1 September 1996.

In June this year, Queensland Transport wrote to all air service operators informing them of the proposal to introduce new state requirements.

Results of Consultation

The proposed amendments have not been opposed.

Notes on Provisions

Clause 1 states that the Act is cited as the *Civil Aviation (Carrier's Liability) Amendment Bill 1996*.

Clause 2(1) amends section 2 to insert a definition of "applied provisions". This means the provisions of the Commonwealth Act and Regulations apply under the *Queensland Civil Aviation (Carriers' Liability) Act 1964* as laws of this State.

Clause 2(2) amends the definition of the Commonwealth regulations by inserting a reference Part 4 or Part 4A. This effectively adopts Part 4A of the Commonwealth Act which contains the requirement that air service operators possess insurance against liability for death or personal injury to passengers.

Clause 2(3) provides for adoption of definitions made pursuant to the Commonwealth Act.

Clause 3 omits the last paragraph of Section 4 and replaces it with a redefined provision which states the Act does not apply to interstate air services and or air services between Australia & overseas.

Clauses 4(1) and (2) amend Section 5 by correcting references to Part 4 in the State Act by adding Part 4A to that reference. This ensures proper reference is made to the Commonwealth provisions on insurance.

Clauses 4(3) and (4) amend Section 5(1)(d) by ensuring that, where applicable, a passenger receives compensation from the Workers' Compensation Board of Queensland.

Clause 5 inserts new Sections 6A and 6B into the Act. These Sections achieve the following respectively:

- Section 6A has the effect of ensuring the applied Commonwealth Act provisions are administered and enforced as laws of the Commonwealth rather than as laws of the State.

- Section 6B allows alternative arrangements to those mentioned in Section 6A to be made. The alternative arrangements allow for laws of the State to apply rather than laws of the Commonwealth

Clause 6 amends section 7 of the Act by ensuring that the Statutory Instruments Act 1992 applies to a Commonwealth Regulation and by amending the manner in which regulations pursuant to this Act are made.