

Queensland



**CIVIL AVIATION
(CARRIERS' LIABILITY)
AMENDMENT BILL 1996**

Queensland



**CIVIL AVIATION (CARRIERS’
LIABILITY) AMENDMENT BILL 1996**

TABLE OF PROVISIONS

| Section | Page |
|---|------|
| 1 Short title | 4 |
| 2 Act amended | 4 |
| 3 Amendment of s 2 (Interpretation) | 4 |
| 4 Amendment of s 4 (Carriage to which Act applies) | 5 |
| 5 Amendment of s 5 (Application of provisions of pt 4 of Commonwealth Act) | 5 |
| 6 Insertion of new ss 6A and 6B | 6 |
| 6A Administration of the applied provisions as Commonwealth laws | 6 |
| 6B Alternative arrangements for administration of applied provisions | 6 |
| 7 Amendment of s 7 (Regulations) | 7 |

1996

A BILL

FOR

An Act to amend the *Civil Aviation (Carriers' Liability) Act 1964*

| | | |
|--------|---|----------------------|
| | The Parliament of Queensland enacts— | 1 |
| | Short title | 2 |
| Clause | 1. This Act may be cited as the <i>Civil Aviation (Carriers' Liability) Amendment Bill 1996</i> . | 3 4 |
| | Act amended | 5 |
| Clause | 2. This Act amends the <i>Civil Aviation (Carriers' Liability) Act 1964</i> . | 6 |
| | Amendment of s 2 (Interpretation) | 7 |
| Clause | 3.(1) Section 2(1), definitions “ the Commonwealth Act ” and “ the Commonwealth Regulations ”— | 8 9 |
| | <i>omit.</i> | 10 |
| | (2) Section 2(1)— | 11 |
| | <i>insert—</i> | 12 |
| | ‘ “applied provisions” means the provisions of the Commonwealth Act and the Commonwealth Regulations as they apply under this Act as laws of the State. | 13 14 15 |
| | “ Commonwealth Act ” means the <i>Civil Aviation (Carriers' Liability) Act 1959</i> (Cwlth). | 16 17 |
| | “ Commonwealth Regulations ” means the regulations 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.’. | 18 19 20 21 |
| | (3) Section 2(2), ‘sections 5 and 26’— | 22 |
| | <i>omit, insert—</i> | 23 |
| | ‘sections 5, 26 and 41B’. | 24 |

Civil Aviation (Carriers' Liability) Amendment

| | | |
|--------|---|--------|
| | Amendment of s 4 (Carriage to which Act applies) | 1 |
| Clause | 4.(1) Section 4, from ‘not being carriage’ to ‘Guadalajara Convention, applies’. | 2 |
| | <i>omit.</i> | 3 |
| | <i>omit.</i> | 4 |
| | (2) Section 4— | 5 |
| | <i>insert—</i> | 6 |
| | ‘ (2) However, this Act does not apply to— | 7 |
| | (a) carriage to which part 4 of the Commonwealth Act applies; or | 8 |
| | (b) carriage to which the Warsaw Convention, the Hague Protocol or the Guadalajara Convention applies; or | 9 |
| | (c) carriage to which the provisions of another convention, protocol or treaty apply if the provisions have the force of law under the Commonwealth Act and are prescribed for the purposes of this paragraph by a regulation under this Act.’. | 10 |
| | | 11 |
| | | 12 |
| | | 13 |
| | | 14 |
| | Amendment of s 5 (Application of provisions of Pt 4 of Commonwealth Act) | 15 |
| | | 16 |
| Clause | 5.(1) Section 5, heading, ‘ Pt 4 ’— | 17 |
| | <i>omit, insert—</i> | 18 |
| | ‘ pts 4 and 4A ’. | 19 |
| | (2) Section 5(1), ‘Part 4 of the Commonwealth Act (other than sections 27, 40 and 41)’— | 20 |
| | <i>omit, insert—</i> | 21 |
| | <i>omit, insert—</i> | 22 |
| | ‘parts 4 and 4A of the Commonwealth Act (other than sections 27, 40, 41 and 41J(8))’. | 23 |
| | | 24 |
| | (3) Section 5(1)(d), ‘section 31 of’— | 25 |
| | <i>omit.</i> | 26 |
| | (4) Section 5(1)(e)— | 27 |
| | <i>omit, insert—</i> | 28 |

Civil Aviation (Carriers' Liability) Amendment

‘(e) for a passenger for whom compensation is paid out of the Workers’ Compensation Fund under the *Workers’ Compensation Act 1990*—the reference in section 37 of the Commonwealth Act to the employer of the passenger were a reference to the Workers’ Compensation Board.’.

Insertion of new ss 6A and 6B

Clause 6. After section 6—
insert—

‘Administration of the applied provisions as Commonwealth laws

‘**6A.(1)** It is Parliament’s intention 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 applying the applied provisions under this Act, any function or power conferred on a Commonwealth authority 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.

‘Alternative arrangements for administration of applied provisions

‘**6B.(1)** A regulation may provide that—

- (a) any or all of the provisions of section 6A do not have effect; and

Civil Aviation (Carriers' Liability) Amendment

(b) any or all of the functions or powers conferred on a Commonwealth authority under the applied provisions may be exercised or performed by a person or authority specified in the regulation.

‘(2) To the extent that, because of a regulation under 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 defendant, be dealt with summarily.’.

Amendment of s 7 (Regulations)

Clause **7.(1)** Section 7(1) and (1A)—

omit, insert—

‘**7.(1)** The Governor in Council may make regulations under this Act.’.

(2) Section 7(2), from “The Governor” to “prescribing”—

omit, insert—

‘A regulation may prescribe’.

(3) Section 7(3)—

omit.

(4) Section 7(4)—

omit.

(5) Section 7(5)—

renumber as subsection (3).

(6) After section 7(3) as renumbered—

insert—

‘**(4)** The *Statutory Instruments Act 1992*, sections 49 and 50¹ apply to a Commonwealth Regulation made after the commencement of this subsection as if—

¹ Section 49 (Subordinate legislation must be tabled)
Section 50 (Disallowance)

Civil Aviation (Carriers' Liability) Amendment

- (a) the Commonwealth Regulation were subordinate legislation; and 1
- (b) the reference in section 49(1) to the gazette were a reference to the 2
Commonwealth gazette; and 3
- (c) a reference to subordinate legislation ceasing to have effect were a 4
reference to the regulation ceasing to have effect by virtue of this 5
Act.'. 6

7