



Western Australia

## **Civil Aviation (Carriers' Liability) Act 1961**

---

As at 02 May 2005

Version 02-b0-10  
Published on [www.legislation.wa.gov.au](http://www.legislation.wa.gov.au)



# Civil Aviation (Carriers' Liability) Act 1961

## Contents

1.	Short title and citation	1
2.	Commencement	1
3.	Interpretation	1
4.	Act to bind Crown in right of the State	2
5.	Carriage to which Act applies	2
6.	Application of certain provisions of the Commonwealth Act	3
7.	Stowaways in aircraft	4
8.	Administration of the applied provisions as Commonwealth laws	4
9.	Alternative arrangements for administration of applied provisions	5
10.	Regulations	5
	<b>Notes</b>	
	Compilation table	6

## Defined terms



## Civil Aviation (Carriers' Liability) Act 1961

An Act relating to the carriage of passengers in aircraft.

**1. Short title and citation**

This Act may be cited as the *Civil Aviation (Carriers' Liability) Act 1961*<sup>1</sup>.

**2. Commencement**

This Act shall come in, to operation on a day to be fixed by proclamation<sup>1</sup>.

**3. Interpretation**

(1) In this Act —

*applied provisions* means the provisions of the Commonwealth Act and the Commonwealth Regulations as they apply under this Act as laws of the State;

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

*the Commonwealth Act* means the *Civil Aviation (Carriers' Liability) Act 1959* of the Commonwealth as amended and in force from time to time;

*the Commonwealth Regulations* means the regulations in force under the Commonwealth Act for the purposes of Part IV or IVA of that Act, other than regulations made for the purposes of section 41 of that Act.

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

of this Act in like manner as they apply to the interpretation of section 27 of the Commonwealth Act.

*[Section 3 amended: No. 52 of 1970 s. 2; No. 64 of 1976 s. 3<sup>2</sup>; No. 80 of 1996 s. 4.]*

**4. Act to bind Crown in right of the State**

This Act binds the Crown in right of the State.

**5. Carriage to which Act applies**

- (1) The carriage to which this Act applies is 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 or a charter licence in the course of commercial transport operations under a contract for the carriage of the passenger between a place in the State and another place in the State, not being —
  - (a) carriage to which Part IV of the Commonwealth Act applies;
  - (b) carriage to which the Warsaw Convention, the Hague Protocol or the Guadalajara Convention applies; or
  - (c) carriage to which the provisions of another convention, protocol or treaty apply, being provisions that have the force of law under the Commonwealth Act and that are prescribed for the purposes of this paragraph by the regulations under this Act.
- (2) A contract for the carriage of a passenger whereby the carriage is to begin and end at the one place in the State shall, irrespective of whether the carriage is to include a landing at any other place in the State, be deemed for the purposes of subsection (1) to be a contract for the carriage of the passenger between a place in the State and another place in the State.

*[Section 5 amended: No. 52 of 1970 s. 3; No. 80 of 1996 s. 5.]*

**6. Application of certain provisions of the Commonwealth Act<sup>3</sup>**

The provisions of Parts IV and IVA of the Commonwealth Act (other than sections 27, 40, 41 and 41J(8)) and the provisions of the Commonwealth Regulations apply to and in relation to carriage to which this Act applies and matters connected with the carriage, as if those provisions were incorporated in this Act and as if, in those provisions as so incorporated —

- (a) general references to Parts IV and IVA 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 section 29(5) of the Commonwealth Act to carriage referred to in section 27(4) of the Commonwealth Act were a reference to the carriage of a passenger where —
    - (i) the carriage of the passenger between 2 places was to be performed by 2 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 2 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.

*[Section 6 amended: No. 80 of 1996 s. 6.]*

**7. Stowaways in aircraft**

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

**8. Administration of the applied provisions as Commonwealth laws**

- (1) It is the intention of Parliament 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;
  - (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 the application of provisions of the Commonwealth Act and the Commonwealth Regulations under this Act, any function or power conferred on a Commonwealth authority by or 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.

*[Section 8 inserted: No. 80 of 1996 s. 7.]*



**9. Alternative arrangements for administration of applied provisions**

- (1) The regulations may provide that —
- (a) any or all of the provisions of section 8 do not have effect; and
  - (b) any or all of the functions or powers conferred on a Commonwealth authority by or under the applied provisions may be exercised or performed by a person or authority specified in the regulations.
- (2) To the extent that, because of regulations referred to in subsection (1), the laws of the Commonwealth do not apply to an offence against the applied provisions, the offence is to be regarded as a crime under the laws of the State, but may, at the election of the accused and with the consent of the prosecutor, be dealt with summarily.

*[Section 9 inserted: No. 80 of 1996 s. 7; amended: No. 84 of 2004 s. 82.]*

**10. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

*[Section 10 inserted: No. 80 of 1996 s. 7.]*

## Notes

- <sup>1</sup> This is a compilation of the *Civil Aviation (Carriers' Liability) Act 1961* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Civil Aviation (Carriers' Liability) Act 1961</i>	69 of 1961	28 Nov 1961	22 Dec 1961 (see s. 2 and <i>Gazette</i> 15 Dec 1961 p. 3705)
<i>Civil Aviation (Carriers' Liability) Act Amendment Act 1970</i>	52 of 1970	15 Oct 1970	15 Oct 1970
<b>Reprint of the <i>Civil Aviation (Carriers' Liability) Act 1961</i> approved 24 Mar 1971</b> (includes amendments listed above)			
<i>Civil Aviation (Carriers' Liability) Act Amendment Act 1976</i> <sup>2</sup>	64 of 1976	22 Sep 1976	1 Jul 1976 (see s. 2 and 3)
<i>Civil Aviation (Carriers' Liability) Amendment Act 1996</i>	80 of 1996	14 Nov 1996	1 Sep 1998 (see s. 3 and <i>Gazette</i> 28 Aug 1998 p. 4743)
<b>Reprint 2: The <i>Civil Aviation (Carriers' Liability) Act 1961</i> as at 7 Mar 2003</b> (includes amendments listed above)			
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

- <sup>2</sup> The *Civil Aviation (Carriers' Liability) Act Amendment Act 1976* s. 3(2) reads as follows:

“

- (2) The amendment made by subsection (1) of this section does not apply in relation to an accident or occurrence that took place before the first day of July, 1976.

”

- <sup>3</sup> Part IV of the *Civil Aviation (Carriers' Liability) Act 1959* of the Commonwealth is about the liability of carriers in respect of the carriage of passengers in aircraft that is not covered by international conventions.  
Part IVA of the Commonwealth Act requires carriers to have insurance for liabilities they may have under other Parts of that Act.

At the time of this compilation, the Commonwealth Act and the regulations under it could be found at the internet site "scaleplus.law.gov.au".

**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
applied provisions .....	3(1)
Commonwealth authority.....	3(1)
the Commonwealth Act .....	3(1)
the Commonwealth Regulations .....	3(1)