



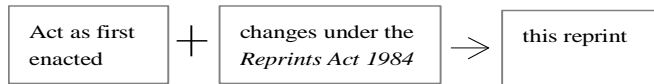
Western Australia

# **Damage by Aircraft Act 1964**

**Reprinted as at 4 October 2002**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original Act are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

Editorial notes show if something has been omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything omitted can be found in an earlier reprint (if there is one) or the Act as passed.

Reprinted under the  
*Reprints Act 1984* as  
at 4 October 2002

Western Australia

## Damage by Aircraft Act 1964

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Western Australia

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## Damage by Aircraft Act 1964

**An Act to make provision in respect of liability for damage caused by aircraft and for incidental matters.**

**1. Short title**

This Act may be cited as the *Damage by Aircraft Act 1964*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

**3. Interpretation**

In this Act, unless the contrary intention appears —

“**Air Navigation Regulations**” means the Air Navigation Regulations made and as in force from time to time under the Commonwealth Act, and includes such of the provisions of those Regulations as apply to and in relation to air navigation within the State by virtue of the *Air Navigation Act 1937*;

“**article**” includes mail and postal articles, and any liquid and liquid spray;

“**Commonwealth Act**” means the *Air Navigation Act 1920* of the Parliament of the Commonwealth and includes that Act as amended from time to time and any Act of the

Parliament of the Commonwealth passed in substitution for the first mentioned Act;

“**loss or damage**” in relation to persons, includes loss of life and personal injury.

**4. Limitation of liability in respect of trespass or nuisance by flying over property**<sup>2</sup>

No action lies in respect of trespass, or in respect of nuisance, by reason only of —

- (a) the flight of an aircraft over any property at a height above the ground that, having regard to the wind, the weather, and all the circumstances, is reasonable; or
- (b) the ordinary incidents of such a flight,

so long as the Air Navigation Regulations are complied with.

**5. Liability for damage by aircraft or articles, etc., falling from an aircraft**<sup>2</sup>

- (1) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or by an article, animal or person falling from, an aircraft while the aircraft is in flight, or is taking off, or is landing then, unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage are recoverable from the owner of the aircraft without proof of negligence, or intention, or other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner.
- (2) Notwithstanding anything in subsection (1) where material loss or damage is caused as mentioned in that subsection in circumstances in which —
  - (a) damages in respect of that loss or damage are recoverable from the owner by virtue only of the provisions of that subsection; and

- (b) a legal liability is created in some person other than the owner to pay damages in respect of that loss or damage, the owner is entitled to be indemnified by that other person against any claim in respect of that loss or damage.
- (3) Where an aircraft has been demised, chartered, let, or hired out for a period exceeding 14 days to any other person by the owner thereof and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section has effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, chartered, let or hired out.

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### **Notes**

- <sup>1</sup> This is a reprint as at 4 October 2002 of the *Damage by Aircraft Act 1964*. The following table contains information about that Act and about any previous reprint.

### **Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Damage by Aircraft Act 1964</i>	49 of 1964	30 Nov 1964	24 Dec 1964 (see s. 2 and <i>Gazette</i> 24 Dec 1964 p. 4093)

### **Reprint of the *Damage by Aircraft Act 1964* authorised 12 Mar 1973**

- <sup>2</sup> Marginal notes in the *Damage by Aircraft Act 1964* referring to legislation of other jurisdictions have been omitted from this reprint.



