



Insurance and Aviation Liability Legislation Amendment Act 2002

No. 96, 2002

**An Act to amend legislation relating to insurance
and aviation liability, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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No. 96, 2002

An Act to amend legislation relating to insurance and aviation liability, and for related purposes

[Assented to 10 November 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Insurance and Aviation Liability
Legislation Amendment Act 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	10 November 2002
2. Schedule 1, items 1 to 4	At the same time as Schedule 4 to the <i>Aviation Legislation Amendment Act (No. 1) 1998</i> commenced	23 July 1998
3. Schedule 1, items 5 and 6	The day on which this Act receives the Royal Assent	10 November 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Application

The amendment made by item 6 of Schedule 1 applies to a provision included in a contract of insurance after the commencement of the item, including a provision included by varying a contract entered into before the commencement of the item.

Schedule 1—Amendments

Civil Aviation (Carriers' Liability) Act 1959

1 Section 5

Insert:

Australian citizen has the same meaning as in the *Australian Citizenship Act 1948*.

2 Section 5

Insert:

Australian person means:

- (a) an individual who is an Australian citizen or is ordinarily resident in Australia; or
- (b) the Commonwealth, a State or a Territory; or
- (c) a person who is a nominee of the Commonwealth or of a State or a Territory; or
- (d) a Commonwealth, State or Territory authority; or
- (e) a person who is a nominee of a Commonwealth, State or Territory authority; or
- (f) a local government body (whether incorporated or not) formed by or under a law of a State or a Territory; or
- (g) a person who is a nominee of a local government body referred to in paragraph (f); or
- (h) a body corporate that:
 - (i) is incorporated by or under a law of the Commonwealth or of a State or a Territory; and
 - (ii) is substantially owned and effectively controlled by persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (i); or
- (i) a person in the capacity of a trustee, or manager, of a fund in which the total interests (if any) of persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) represent 60% or more of the total interests in the fund.

3 Subsection 11A(2) (at the end of paragraph (b) of the definition of *Australian international carrier*)

Add “and who is an Australian person”.

4 Subsection 21A(2) (at the end of paragraph (b) of the definition of *Australian international carrier*)

Add “and who is an Australian person”.

Damage by Aircraft Act 1999

5 After subsection 10(2)

Insert:

(2A) Subsection (2) does not apply to a person if, immediately before the impact happened:

- (a) the person was the owner of the aircraft; and
- (b) the person did not have an active role in the operation of the aircraft; and
- (c) either:
 - (i) there was a lease or other arrangement in force (whether or not with the owner) under which another person had the exclusive right to use the aircraft; or
 - (ii) another person had the exclusive right to use the aircraft and there was an agreement in force under which the owner provided financial accommodation in connection with the aircraft.

Insurance Contracts Act 1984

6 At the end of section 9

Add:

- (4) Sections 53 and 63 do not apply in relation to a provision of a contract, or a proposed contract, of insurance to the extent that:
 - (a) the provision authorises or permits the insurer to vary or cancel either or both of the following:
 - (i) cover for risks related to war;
 - (ii) cover for risks related to terrorism; and

(b) the provision is prescribed or otherwise identified by the regulations.

*[Minister's second reading speech made in—
House of Representatives on 25 September 2002
Senate on 21 October 2002]*

(202/02)