



# **Air Accidents (Commonwealth Government Liability) Amendment Act 1982**

**No. 70 of 1982**

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## **An Act to amend the *Air Accidents (Commonwealth Government Liability) Act 1963***

*[Assented to 6 September 1982]*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### **Short title, &c.**

1. (1) This Act may be cited as the *Air Accidents (Commonwealth Government Liability) Amendment Act 1982*.

(2) The *Air Accidents (Commonwealth Government Liability) Act 1963*<sup>1</sup> is in this Act referred to as the Principal Act.

### **Commencement**

2. This Act shall come into operation on the day on which section 4 of the *Civil Aviation (Carriers' Liability) Amendment Act 1982* comes into operation.

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**Interpretation**

3. Section 4 of the Principal Act is amended—

(a) by inserting before the definition of “Commonwealth authority” the following definitions:

“ ‘aircraft crew member’ means a person who performs functions as a member of the crew of an aircraft;

‘commercial transport operations’ means operations in which an aircraft is used, for hire or reward, for the carriage of passengers or cargo;”;

(b) by omitting the definition of “flying pay”; and

(c) by omitting the definition of “passenger” and substituting the following definition:

“ ‘passenger’, in relation to an aircraft, means any person lawfully entitled to be on board the aircraft other than a person who—

(a) is employed, as an aircraft pilot or aircraft crew member, by—

(i) a Commonwealth authority; or

(ii) a corporation,

that operates commercial transport operations; and

(b) is on board the aircraft for the purpose of performing functions as a pilot, or as another member of the crew, of the aircraft.”.

**Application of Part**

4. Section 6 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) This Part does not apply in relation to the death of, or injury to, a person in circumstances entitling any dependant of the person, or the person, to pension under the *Repatriation Act* 1920 (other than Division 10 of Part III), the *Repatriation (Far East Strategic Reserve) Act* 1956 or the *Repatriation (Special Overseas Service) Act* 1962.”.

**Limitation of amount recoverable under this Part**

5. (1) Section 8 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The maximum liability of the Commonwealth or a Commonwealth authority under this Part in respect of any one person, by reason of his death or injury resulting from an accident, is—

(a) where paragraph (b) does not apply—\$100,000; or

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- (b) where, at the date of the accident, a regulation was in force under the *Civil Aviation (Carriers' Liability) Act 1959* prescribing an amount higher than \$100,000 for the purposes of sub-section 31 (1) of that Act—the amount prescribed by that regulation.”.

(2) Section 8 of the Principal Act continues to operate in relation to the liability imposed on the Commonwealth, or on a Commonwealth authority, by section 28 of the *Civil Aviation (Carriers' Liability) Act 1959* as applied by section 7 of the *Air Accidents (Commonwealth Government Liability) Act 1963* in respect of an accident that took place before the date of commencement of this Act.

**Liability of Commonwealth, &c., independently of this Part**

6. Section 10 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) In sub-section (1), ‘damages’ does not include—

- (a) compensation under the *Compensation (Commonwealth Government Employees) Act 1971* or the *Seamen's Compensation Act 1911*; or  
(b) a pension under the *Repatriation Act 1920*.

“(3) Nothing in this section prevents the application of—

- (a) section 99 or 100 of the *Compensation (Commonwealth Government Employees) Act 1971* or section 10A of the *Seamen's Compensation Act 1911*; or  
(b) section 107R of the *Repatriation Act 1920*,

in relation to damages recovered or recoverable under this Part.”.

**Application of Part**

7. Section 11 of the Principal Act is amended—

- (a) by omitting sub-section (3) and substituting the following sub-section:

“(3) This Part does not apply in relation to the death of, or injury to, a person in circumstances entitling any dependant of the person, or the person, to pension under the *Repatriation Act 1920* (other than Division 10 of Part III), the *Repatriation (Far East Strategic Reserve) Act 1956* or the *Repatriation (Special Overseas Service) Act 1962*.”; and

- (b) by omitting sub-section (5).

**Limitation of amount recoverable under this Part**

8. (1) Section 14 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) The maximum liability of the Commonwealth or a Commonwealth authority under this Part in respect of any one person, by reason of his death or injury resulting from an accident, is—

- (a) where paragraph (b) does not apply—\$100,000; or

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- (b) where, at the date of the accident, a regulation was in force under the *Civil Aviation (Carriers' Liability) Act 1959* prescribing an amount higher than \$100,000 for the purposes of sub-section 31 (1) of that Act—the amount prescribed by that regulation.”.

(2) Section 14 of the Principal Act continues to operate in relation to the liability imposed on the Commonwealth, or on a Commonwealth authority, by section 12 of the *Air Accidents (Commonwealth Government Liability) Act 1963* in respect of an accident that took place before the date of commencement of this Act.

**Liability of Commonwealth, &c., independently of this Part**

9. Section 15 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) In sub-section (1), ‘damages’ does not include—

- (a) compensation under the *Compensation (Commonwealth Government Employees) Act 1971* or the *Seamen's Compensation Act 1911*; or  
(b) a pension under the *Repatriation Act 1920*.

“(3) Nothing in this section prevents the application of—

- (a) section 99 or 100 of the *Compensation (Commonwealth Government Employees) Act 1971* or section 10A of the *Seamen's Compensation Act 1911*; or  
(b) section 107R of the *Repatriation Act 1920*,

in relation to damages recovered or recoverable under this Part.”.

**Formal amendments**

10. The Principal Act is amended as set out in the Schedule.

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**SCHEDULE**

Section 10

**FORMAL AMENDMENTS**

Provision	Amendment
Sub-section 6 (1) . . . . .	Omit "1959-1962", substitute "1959".
Section 7 . . . . .	Omit "1959-1962", substitute "1959". Omit "sub-section (1) of section 32", substitute "sub-section 32 (1)".
Sub-section 9 (1) . . . . .	Omit "1959-1962" (wherever occurring), substitute "1959".
Sub-section 9 (2) . . . . .	Omit "1959-1962", substitute "1959". Omit "the next succeeding section", substitute "section 10".
Sub-paragraph 11 (1) (a) (i)	Omit " <i>Compensation (Australian Government Employees) Act 1971-1973</i> ", substitute " <i>Compensation (Commonwealth Government Employees) Act 1971</i> ".
Sub-paragraph 11 (1) (a) (ii)	Omit "1911-1960", substitute "1911".
Sub-section 11 (2)	Omit "1959-1962", substitute "1959".
Sub-section 11 (4)	Omit "paragraph (a), (b) or (c) of sub-section (1)", substitute "paragraph (1) (a), (b) or (c)".
Section 13 . . . . .	Omit "1959-1962", substitute "1959".
Paragraph 16 (1) (c) . . . . .	Omit "the next succeeding sub-section", substitute "sub-section (2)".
Sub-section 16 (3) . . . . .	Omit "the last preceding sub-section", substitute "sub-section (2)".

**NOTE**

1. No. 74, 1963, as amended. For previous amendments, see No. 93, 1966; No. 56, 1970; No. 50, 1971; Nos. 134 and 216, 1973; No. 127, 1976; and Nos. 36 and 69, 1978.