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

**No. 70 of 1982**

**An Act to amend the *Air Accidents* (*Commonwealth Government Liability*)A*ct* 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* 19631 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.

**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

(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

(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.

**SCHEDULE** Section 10

FORMAL AMENDMENTS

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| 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 *“Compensation* (*Australian Government Employees*) *Act* 1971-1973”, substitute *“Compensation* (*Commonwealth Government Employees*) *Act* 1971”. |
| 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.