



Aviation Legislation Amendment (Liability and Insurance) Act 2012

No. 191, 2012

**An Act to amend the law relating to aviation, and
for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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An Act to amend the law relating to aviation, and for related purposes

[Assented to 11 December 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Aviation Legislation Amendment
(Liability and Insurance) Act 2012*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	11 December 2012
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	31 March 2013 (see F2013L00210)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Civil Aviation (Carriers' Liability) Act 1959

1 Section 28

Omit “personal”, substitute “bodily”.

2 Paragraphs 31(1)(a), (b) and (c)

Omit “\$500,000”, substitute “\$725,000”.

3 Section 41

Omit “the Montreal No. 4 Convention” (wherever occurring), substitute “the 1999 Montreal Convention”.

4 Paragraph 41C(3)(a)

Omit “\$500,000”, substitute “\$725,000”.

Damage by Aircraft Act 1999

5 After subsection 10(1)

Insert:

- (1A) However, this section does not apply in relation to a person who suffers mental injury caused by a thing covered by paragraph (1)(a), (b), (c) or (d) unless the person, or property owned by the person, suffers other personal injury, material loss, damage or destruction caused by such a thing.

6 After section 11

Insert:

11A Contributory negligence

- (1) If, in an action under section 11, a defendant proves that the injury, loss, damage or destruction was caused by, or contributed to by, the negligence of the person (the *sufferer*) in respect of whom the injury, loss, damage or destruction was suffered, the damages recoverable must be assessed in accordance with this section.

- (2) The court must determine the damages that would have been recoverable if there had been no negligence on the part of the sufferer.
- (3) The damages determined under subsection (2) must be reduced to the extent the court thinks just and equitable having regard to the share of the sufferer in the responsibility for the injury, loss, damage or destruction.
- (4) If any case to which subsection (1) applies is tried with a jury, the jury must determine the damages referred to in subsection (2) and the amount of the reduction under subsection (3).

11B Right of contribution

If, because of an action under section 11, an amount of damages is paid by a person in respect of an injury, loss, damage or destruction, that person may, in an action in a court of competent jurisdiction in Australian territory, recover by way of contribution, from either or both of the following:

- (a) any other person jointly and severally liable under section 10 in respect of the injury, loss, damage or destruction;
- (b) any other person who caused, or contributed to, the injury, loss, damage or destruction;

such part of the amount paid as the court considers just and equitable.

7 Application provisions

- (1) The amendments made by items 1 and 2 apply in relation to accidents that take place on or after the commencement of those items.
- (2) The amendment made by item 4 applies in relation to a passenger-carrying operation engaged in, or proposed to be engaged in, on or after the commencement of that item.
- (3) The amendment made by item 5 applies in relation to mental injury suffered on or after the commencement of that item.
- (4) The amendment made by item 6 applies in relation to injury, loss, damage or destruction suffered on or after the commencement of that item.

*[Minister's second reading speech made in—
House of Representatives on 22 August 2012
Senate on 10 September 2012]*

(141/12)

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