

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Aviation Legislation Amendment
(International Airline Licences and
Carriers' Liability Insurance) Bill 2008**

No. , 2008

(Infrastructure, Transport, Regional Development and Local Government)

**A Bill for an Act to amend the law relating to
aviation, and for related purposes**

Contents

| | | |
|--|--------------------|-----------|
| 1 | Short title | 1 |
| 2 | Commencement | 1 |
| 3 | Schedule(s) | 3 |
| Schedule 1—International airline licences | | 4 |
| Part 1—Main amendments | | 4 |
| <i>Air Navigation Act 1920</i> | | 4 |
| Part 2—Consequential amendments | | 8 |
| <i>Adelaide Airport Curfew Act 2000</i> | | 8 |
| <i>Aircraft Noise Levy Collection Act 1995</i> | | 8 |
| <i>Civil Aviation Act 1988</i> | | 8 |
| Part 3—Application and transitional provisions | | 9 |
| Schedule 2—Carriers’ liability insurance | | 11 |
| Part 1—Main amendments | | 11 |
| Division 1—Amendments | | 11 |
| <i>Civil Aviation Act 1988</i> | | 11 |
| <i>Civil Aviation (Carriers’ Liability) Act 1959</i> | | 17 |
| Division 2—Application and saving provisions | | 21 |
| Part 2—Amendments conditional on the Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Measures) Act 2008 | | 23 |
| <i>Civil Aviation Act 1988</i> | | 23 |
| <i>Civil Aviation (Carriers’ Liability) Act 1959</i> | | 23 |
| <i>Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Measures) Act 2008</i> | | 23 |

1 **A Bill for an Act to amend the law relating to**
2 **aviation, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Aviation Legislation Amendment*
6 *(International Airline Licences and Carriers' Liability Insurance)*
7 *Act 2008.*

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.
13

| 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 on which this Act receives the Royal Assent. | |
| 2. Schedule 1 | A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period. | |
| 3. Schedule 2, Part 1 | A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period. | |
| 4. Schedule 2, items 51, 52 and 53 | The later of: (a) immediately after the commencement of the provision(s) covered by table item 3; and (b) the commencement of Schedule 1 to the <i>Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Measures) Act 2008</i> . However, the provision(s) covered by this table item do not commence at all if the event mentioned in paragraph (b) does not occur. | |
| 5. Schedule 2, item 54 | Immediately before the commencement of Schedule 1 to the <i>Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Measures) Act 2008</i> . However, if that Schedule commences before the provision(s) covered by table item 3, the provision(s) covered by this table item do not commence at all. | |

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Schedule 1—International airline licences

Part 1—Main amendments

Air Navigation Act 1920

1 Subsection 3(1) (definition of *aircraft operator or operator*)

Repeal the definition.

2 Subsection 3(1) (definition of *airport*)

Repeal the definition.

3 Subsection 3(1) (definition of *air service*)

Repeal the definition.

4 Subsection 3(1) (definition of *baggage*)

Repeal the definition.

5 Subsection 3(1) (definition of *charter operation*)

Repeal the definition.

6 Subsection 3(1) (definition of *international air service*)

Repeal the definition.

7 Subsection 3(1) (definition of *non-scheduled flight*)

Omit “issued”, substitute “granted”.

8 Subsection 3(1) (definition of *regular public transport operation*)

Repeal the definition.

9 Subsection 3(1) (definition of *thing*)

Repeal the definition.

10 Subsection 3(1) (definition of *threaten*)

Repeal the definition.

1 **11 Sections 3AB and 3AC**

2 Repeal the sections.

3 **12 Subsection 11(1)**

4 Omit “(1)”.

5 **13 Subsection 11(1)**

6 Omit “conducted”, substitute “operated”.

7 **14 Subsection 11(2)**

8 Repeal the subsection.

9 **15 Subsection 12(1)**

10 Omit “Subject to subsection (1B), an international airline shall”,
11 substitute “Subject to subsections (2) and (3), an international airline
12 must”.

13 Note: The heading to section 12 is replaced by the heading “**Requirement to hold**
14 **international airline licence**”.

15 **16 Subsection 12(1)**

16 Omit “issued”, substitute “granted”.

17 **17 Subsection 12(1A)**

18 Omit “If an aircraft is flown in contravention of subsection (1), the
19 operator of the aircraft is guilty of”, substitute “If an international
20 airline contravenes subsection (1), the airline commits”.

21 **18 Subsection 12(1AA)**

22 Omit “operator”, substitute “international airline”.

23 **19 Subsections 12(1B), (2) and (3)**

24 Repeal the subsections, substitute:

25 (2) Subsection (1) does not apply to a scheduled international air
26 service if it is operated in accordance with a permission under
27 section 15D.

28 (3) The Secretary may, by legislative instrument, determine that
29 subsection (1) does not apply in relation to a category of scheduled
30 international air services. The determination has effect accordingly.

- 1 (4) For the purposes of this section:
2 (a) an international airline may operate a scheduled international
3 air service even if it does not operate the aircraft used to
4 operate the service; and
5 (b) an international airline does not operate a scheduled
6 international air service merely because it operates the
7 aircraft used to operate the service.

8 **20 Section 13**

9 Repeal the section, substitute:

10 **13 Licensing of scheduled international air services**

- 11 (1) Without limiting section 26, the regulations may provide for or in
12 relation to the licensing of scheduled international air services
13 operated over, into or out of Australian territory.
- 14 (2) In particular, the regulations may provide for or in relation to the
15 following:
16 (a) the granting of international airline licences by the Secretary;
17 (b) the imposition of conditions on international airline licences
18 by the Secretary;
19 (c) the variation, suspension and cancellation of international
20 airline licences by the Secretary;
21 (d) the surrender to the Secretary of international airline licences.
- 22 (3) An international airline licence must not be granted to an
23 international airline of a country other than Australia unless that
24 country and Australia are parties to:
25 (a) the Air Transit Agreement; or
26 (b) some other agreement or arrangement, whether bilateral or
27 multilateral, under which scheduled international air services
28 of that other country may, subject to the agreement or
29 arrangement, be operated over or into Australian territory.
- 30 (4) Subsection (3) does not limit subsection 12(3).

31 **21 Section 18**

32 Omit “subsections 15A(3) and 17(1B)”, substitute “subsection 12(3),
33 15A(3) or 17(1B)”.

1 **22 Before paragraph 23A(1)(a)**

2 Insert:

3 (aa) to do any of the following under the regulations:

4 (i) refuse to grant an international airline licence;

5 (ii) impose a condition on an international airline licence;

6 (iii) vary, refuse to vary, suspend or cancel an international
7 airline licence; or

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2 **Part 2—Consequential amendments**

3 *Adelaide Airport Curfew Act 2000*

4 **23 Subparagraph 3(2)(b)(i)**

5 Omit “section 12 of”, substitute “regulations made under”.

6 *Aircraft Noise Levy Collection Act 1995*

7 **24 Section 4 (cell at table item 3, column headed “Source of**
8 **authority for operation of the aircraft”)**

9 Omit “issued”, substitute “granted”.

10 *Civil Aviation Act 1988*

11 **25 Paragraph 26(2)(b)**

12 Omit “issued”, substitute “granted”.

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2 **Part 3—Application and transitional provisions**

3 **26 Pre-commencement licences**

- 4 (1) Despite the amendments made by this Schedule, the old law continues
5 to apply in relation to the operation of a scheduled international air
6 service in respect of which an international airline licence was in force
7 immediately before the commencement time.
- 8 (2) Subitem (1) has effect in relation to the operation of the service until
9 whichever of the following first occurs:
- 10 (a) the international airline licence is surrendered or cancelled in
11 accordance with the old law as it continues to apply under
12 subitem (1);
- 13 (b) an international airline licence is granted, in respect of the
14 operation of the service, under regulations made under the
15 *Air Navigation Act 1920* as in force at or after the
16 commencement time;
- 17 (c) the international airline licence is cancelled under
18 subitem (3).
- 19 (3) If the international airline licence is not surrendered or cancelled as
20 mentioned in paragraph (2)(a) of this item, it is cancelled, by force of
21 this subitem, when whichever of the following first occurs:
- 22 (a) an international airline licence is granted in respect of the
23 operation of the service as mentioned in paragraph (2)(b) of
24 this item;
- 25 (b) the period of 6 months beginning at the commencement time
26 ends.
- 27 (4) The Minister may, by legislative instrument, determine that the period
28 mentioned in paragraph (3)(b) of this item is extended for a specified
29 licence by the period, not exceeding 2 months, specified in the
30 determination. The Minister cannot extend the period for a particular
31 licence more than once.
- 32 (5) A determination under subitem (4) has effect accordingly.
- 33 (6) In this item:
34 ***commencement time*** means the time when this Schedule commences.
-

1 *old law* means:

- 2 (a) an Act amended by this Schedule, as in force immediately
3 before the commencement time; and
4 (b) regulations, as in force from time to time, made under such
5 an Act, as in force immediately before the commencement
6 time.

7 **27 Constitutional safety net—acquisition of property**

- 8 (1) If the operation of this Part would result in an acquisition of property
9 from a person otherwise than on just terms, the Commonwealth is liable
10 to pay a reasonable amount of compensation to the person.
- 11 (2) If the Commonwealth and the person do not agree on the amount of the
12 compensation, the person may institute proceedings in the Federal Court
13 of Australia for the recovery from the Commonwealth of such
14 reasonable amount of compensation as the court determines.
- 15 (3) In this item:
16 *acquisition of property* has the same meaning as in paragraph 51(xxxi)
17 of the Constitution.
18 *just terms* has the same meaning as in paragraph 51(xxxi) of the
19 Constitution.

1
2 **Schedule 2—Carriers' liability insurance**

3 **Part 1—Main amendments**

4 **Division 1—Amendments**

5 *Civil Aviation Act 1988*

6 **1 Subsection 3(1)**

7 Insert:

8 *commercial presence* means any type of business or professional
9 establishment.

10 Example: A person can have a *commercial presence* through the creation or
11 maintenance of a branch or representative office.

12 **2 Subsection 3(1)**

13 Insert:

14 *constitutional corporation* means:

- 15 (a) a corporation to which paragraph 51(xx) of the Constitution
16 applies; or
17 (b) a body corporate that is incorporated in a Territory.

18 **3 Subsection 3(1)**

19 Insert:

20 *safety rules*, in relation to a permission or AOC, means the
21 provisions of this Act, the regulations and the Civil Aviation
22 Orders that relate to safety (including rules about the competence
23 of persons to do anything that would be covered by the permission
24 or AOC).

25 **4 After paragraph 9(3)(b)**

26 Insert:

- 27 (ba) enforcing the requirements of this Act and the regulations in
28 relation to insurance and financial arrangements required
29 under Part IVA of the *Civil Aviation (Carriers' Liability) Act*
30 *1959*;

1 **5 Section 18**

2 Repeal the section.

3 **6 Subsections 25(2) and (3)**

4 Omit "specified in the permission", substitute "to which the permission
5 is subject".

6 Note 1: The following heading to subsection 25(1) is inserted "*Directions*".

7 Note 2: The following heading to subsection 25(2) is inserted "*Permissions*".

8 **7 At the end of section 25**

9 Add:

- 10 (4) If a person applies to CASA for a permission under subsection (2)
11 or (3), CASA must grant the permission if CASA is satisfied that
12 the person has complied with, or is capable of complying with:
13 (a) if the person does not have a commercial presence in
14 Australia—the condition referred to in paragraph (5)(a) (if
15 applicable); and
16 (b) in any case—the safety rules.

17 *Permissions—conditions*

- 18 (5) A permission granted under subsection (2) or (3) is subject to:
19 (a) the condition that section 41E of the *Civil Aviation (Carriers'*
20 *Liability) Act 1959* (which deals with personal injury liability
21 insurance) is complied with (if applicable); and
22 (b) any conditions specified in the permission.
- 23 (6) CASA must not do either of the following, except to ensure
24 compliance with the safety rules:
25 (a) specify a condition under paragraph (5)(b);
26 (b) vary a condition specified under paragraph (5)(b).

27 *Permissions—suspension and cancellation*

- 28 (7) CASA must not suspend or cancel a permission granted under
29 subsection (2) or (3), except:
30 (a) if the condition referred to in paragraph (5)(a) is breached; or
31 (b) to ensure compliance with the safety rules.

1 **8 Subsection 26(1)**

2 Omit “specified in the permission”, substitute “to which the permission
3 is subject”.

4 Note: The following heading to subsection 26(1) is inserted “*Permissions*”.

5 **9 Paragraph 26(2)(c)**

6 Omit “given under subsection 25(3) and any conditions specified in the
7 permission”, substitute “granted under subsection 25(3) and any
8 conditions to which the permission is subject”.

9 **10 At the end of section 26**

10 Add:

- 11 (3) If a person applies to CASA for a permission under this section,
12 CASA must grant the permission if CASA is satisfied that the
13 person has complied with, or is capable of complying with:
14 (a) if the person does not have a commercial presence in
15 Australia—the condition referred to in paragraph (4)(a) (if
16 applicable); and
17 (b) in any case—the safety rules.

18 *Permissions—conditions*

- 19 (4) A permission granted under this section is subject to:
20 (a) the condition that section 41E of the *Civil Aviation (Carriers’*
21 *Liability) Act 1959* (which deals with personal injury liability
22 insurance) is complied with (if applicable); and
23 (b) any conditions specified in the permission.
- 24 (5) CASA must not do either of the following, except to ensure
25 compliance with the safety rules:
26 (a) specify a condition under paragraph (4)(b);
27 (b) vary a condition specified under paragraph (4)(b).

28 *Permissions—suspension and cancellation*

- 29 (6) CASA must not suspend or cancel a permission granted under this
30 section, except:
31 (a) if the condition referred to in paragraph (4)(a) is breached; or
32 (b) to ensure compliance with the safety rules.

1 **11 Paragraph 27AC(1)(c)**

2 Repeal the paragraph, substitute:

3 (c) are reasonably required by CASA:

4 (i) to properly consider the application; or

5 (ii) to ensure that section 28BI (which deals with personal
6 injury liability insurance) is complied with in relation to
7 an operation, which would be covered by the AOC, to
8 which that section applies; or

9 (iii) in accordance with the regulations (if any) referred to in
10 paragraph 98(3)(b).

11 **12 Section 27AF**

12 Before "CASA may", insert "(1)".

13 **13 At the end of section 27AF**

14 Add:

15 (2) If the applicant is not a constitutional corporation, subsection (1)
16 applies, in relation to a requirement that relates to an acceptable
17 contract of insurance or adequate financial arrangements (within
18 the meaning of Part IVA of the *Civil Aviation (Carriers' Liability)*
19 *Act 1959*), to the extent that the application relates to carriage by
20 air covered by Part II, III or IV of that Act.

21 **14 Subsection 27A(2)**

22 Repeal the subsection, substitute:

23 (2) CASA may only grant the permission if it is satisfied:

24 (a) if the person does not have a commercial presence in
25 Australia—that the person has complied with, or is capable
26 of complying with, the condition referred to in
27 paragraph (4)(a) (if applicable); and

28 (b) in any case—that to do so will not adversely affect the safety
29 of air navigation.

30 Note: The following heading to subsection 27A(1) is inserted "*Granting permission*".

31 **15 Subsection 27A(4)**

32 Repeal the subsection, substitute:

1 *Conditions*

- 2 (4) A permission granted under this section has effect subject to:
- 3 (a) the condition that section 41E of the *Civil Aviation (Carriers'*
4 *Liability) Act 1959* (which deals with personal injury liability
5 insurance) is complied with (if applicable); and
- 6 (b) any conditions relating to the operation, maintenance and
7 airworthiness of the aircraft covered by the permission:
- 8 (i) that CASA considers necessary in the interests of the
9 safety of air navigation; and
- 10 (ii) that are specified by CASA in the permission.

11 **16 Subsection 27A(5)**

12 After "the conditions", insert "(other than the condition referred to in
13 paragraph (4)(a))".

14 **17 Subsection 27A(6)**

15 Repeal the subsection, substitute:

16 *Cancellation*

- 17 (6) CASA may, by oral or written notice given to the holder of a
18 permission granted under this section, cancel the permission if:
- 19 (a) the condition referred to in paragraph (4)(a) is breached; or
- 20 (b) CASA considers it necessary to do so in the interests of the
21 safety of air navigation.

22 **18 Paragraph 28(1)(a)**

23 Omit all the words after "capable of complying with,", substitute "the
24 safety rules; and".

25 **19 Paragraph 28BA(1)(a)**

26 Omit ", 28BH and 28BI", substitute "and 28BH".

27 **20 After paragraph 28BA(1)(aa)**

28 Insert:

- 29 (ab) the condition that section 28BI is complied with in relation to
30 each operation, covered by the AOC, to which that section
31 applies;

1 **21 Subsection 28BA(2A)**

2 Omit "paragraph (1)(b) or (1)(c)", substitute "paragraph (1)(ab), (b) or
3 (c)".

4 **22 At the end of subsection 28BC(1B)**

5 Add "in relation to any operation, covered by the AOC or authorisation,
6 to which that section applies".

7 **23 Subsection 28BC(1C)**

8 Omit all the words after "the holder of the AOC", substitute "is a
9 constitutional corporation".

10 **24 At the end of subsection 28BC(2B)**

11 Add "in relation to any operation, covered by the AOC or authorisation,
12 to which that section applies".

13 **25 Subsection 28BC(2C)**

14 Omit all the words after "the holder of the AOC", substitute "is a
15 constitutional corporation".

16 **26 Section 28BI**

17 Repeal the section, substitute:

18 **28BI Personal injury liability insurance**

19 *Application*

- 20 (1) This section applies in relation to an operation covered by an AOC
21 if any of the following provisions apply in relation to the operation:
22 (a) subsection 41E(1) or (3) of the *Civil Aviation (Carriers'*
23 *Liability) Act 1959*;
24 (b) subsection 41E(1) or (3) of the *Civil Aviation (Carriers'*
25 *Liability) Act 1959* as that subsection has effect under a law
26 of a State.

27 *Insurance requirements*

- 28 (2) The holder of the AOC must at all times comply with the
29 applicable provision in relation to the operation.

1 Note: The provisions referred to in paragraphs (1)(a) and (b) prescribe, for
2 passenger-carrying operations, certain requirements relating to
3 personal injury liability insurance.

4 **27 Section 32AN (definition of *constitutional corporation*)**

5 Repeal the definition.

6 **28 After paragraph 98(3)(b)**

7 Insert:

- 8 (ba) the manner of applying for permissions under Part III,
9 including the information that may be required, and the
10 conditions to be satisfied, for the granting of permissions;
11 (bb) requiring specified persons to provide CASA with, or to
12 ensure that CASA is provided with, specified information
13 relating to the entering into, modification, cancellation,
14 non-renewal or expiry of acceptable contracts of insurance or
15 adequate financial arrangements in relation to specified
16 passenger-carrying operations (within the meaning of
17 Part IVA of the *Civil Aviation (Carriers' Liability) Act*
18 *1959*), to the extent that the insurance or arrangements are
19 required under this Act;

20 ***Civil Aviation (Carriers' Liability) Act 1959***

21 **29 After subsection 26(1)**

22 Insert:

- 23 (1A) If an Air Operator's Certificate in force under the *Civil Aviation*
24 *Act 1988* does not authorise airline operations only because the
25 holder of the certificate does not comply with section 41E of this
26 Act in relation to the operations, this Part has effect as if the
27 certificate did authorise the operations.

28 **30 Before section 41A**

29 Insert:

30 **Division 1—Preliminary**

31 **31 Section 41B**

32 Repeal the section, substitute:

1 **41B Definitions**

2 In this Part:

3 *acceptable contract of insurance* has the meaning given by
4 section 41C.

5 *adequate financial arrangements* has the meaning given by
6 section 41C.

7 *carrier* means a person engaged, or proposing to engage, in a
8 passenger-carrying operation.

9 *CASA* means the Civil Aviation Safety Authority.

10 *contract of insurance*, in relation to a passenger-carrying operation
11 that a carrier engages in, or proposes to engage in, means a
12 contract:

13 (a) that is between the carrier and an insurer; and

14 (b) under which the insurer indemnifies the carrier against
15 personal injury liability in respect of each passenger carried,
16 or to be carried, by air by the carrier in the operation.

17 *passenger-carrying operation* means an air transport operation for
18 the carriage of passengers to which Part II, III or IV applies.

19 *personal injury liability*, in respect of a passenger carried, or to be
20 carried, by air by a carrier in a passenger-carrying operation, means
21 liability under this Act in respect of the death of, or personal injury
22 suffered by, the passenger.

23 **32 Subsection 41C(1)**

24 Repeal the subsection, substitute:

25 *Acceptable contracts of insurance*

- 26 (1) For the purposes of this Part, an *acceptable contract of insurance*,
27 in relation to a passenger-carrying operation that a carrier engages
28 in, or proposes to engage in, is a contract of insurance that relates
29 to the operation and meets the prescribed requirements.

30 Note: The heading to section 41C is replaced by the heading "**Acceptable contracts of**
31 **insurance and adequate financial arrangements**".

32 **33 Subsection 41C(3)**

1 After “by the carrier”, insert “in the operation”.

2 **34 Subsection 41C(7)**

3 Repeal the subsection, substitute:

4 *Adequate financial arrangements*

5 (7) For the purposes of this Part, *adequate financial arrangements*, in
6 relation to a passenger-carrying operation that a carrier engages in,
7 or proposes to engage in, are financial arrangements that are
8 adequate to discharge any personal injury liability of the carrier in
9 respect of each passenger carried, or to be carried, by air by the
10 carrier in the operation.

11 (8) To avoid doubt, an acceptable contract of insurance in relation to a
12 passenger-carrying operation is an *adequate financial*
13 *arrangement* in relation to the operation.

14 **35 Section 41CA**

15 Repeal the section.

16 **36 Before section 41E**

17 Insert:

18 **Division 2—Insurance requirements**

19 **37 Subsections 41E(1) and (1A)**

20 Repeal the subsections, substitute:

21 (1) A person (other than a person who is, or is an agent of, the Crown
22 in any capacity) must not engage in, or propose to engage in, a
23 passenger-carrying operation, unless an acceptable contract of
24 insurance in relation to the operation is in force.

25 **38 Subsection 41E(2)**

26 Omit “carrier”, substitute “person”.

27 **39 At the end of section 41E**

28 Add:

- 1 (3) A person who is, or is an agent of, the Crown in any capacity must
2 not engage in, or propose to engage in, a passenger-carrying
3 operation, unless adequate financial arrangements in relation to the
4 operation exist.

5 **40 Subsection 41J(1) (definition of *prohibited carriage*)**

6 Repeal the definition, substitute:

7 *prohibited carriage* means a passenger-carrying operation in
8 relation to which:

- 9 (a) an acceptable contract of insurance is not in force; or
10 (b) if the carrier is, or is an agent of, the Crown in any
11 capacity—an adequate financial arrangement does not exist.

12 **41 After section 41J**

13 Insert:

14 **Division 3—Auditing**

15 **41JA Auditing**

16 CASA may, at any time and from time to time, by written notice
17 given to a carrier, require the carrier, within a period stated in the
18 notice, to produce evidence, satisfactory to CASA, that:

- 19 (a) an acceptable contract of insurance is in force in relation to a
20 specified passenger-carrying operation that the carrier
21 engages in, or proposes to engage in; or
22 (b) if the carrier is, or is an agent of, the Crown in any
23 capacity—adequate financial arrangements exist in relation
24 to a specified passenger-carrying operation that the carrier
25 engages in, or proposes to engage in.

26 **42 Paragraph 41K(a)**

27 Omit “subsection 41C(1)”, substitute “section 41JA”.

28 Note: The heading to section 41K is replaced by the heading “**Audit regulations**”.

29 **43 Paragraph 41K(c)**

30 Omit “subsection”, substitute “section”.

31 **44 Before section 41L**

1 Insert:

2 **Division 4—Miscellaneous**

3 **45 Subsection 41L(1)**

4 Omit all the words after “this Part”, substitute “to a member of the staff
5 of CASA”.

6 **46 Subsection 41L(2)**

7 Omit “referred to in paragraph (1)(b)”.

8 **47 At the end of section 41L**

9 Add:

10 (4) In this section:

11 *Director* has the same meaning as in the *Civil Aviation Act 1988*.

12 **Division 2—Application and saving provisions**

13 **48 Definition**

14 In this Division:

15 *commencement time* means the time at which this Part commences.

16 **49 Application provisions**

17 (1) The amendments made by items 1, 3, 5, 6, 7, 8, 9, 10, 14, 15, 16 and 17
18 of this Schedule apply in relation to anything:

- 19 (a) done at or after the commencement time; and
20 (b) covered by a permission given or granted under section 25,
21 26 or 27A of the *Civil Aviation Act 1988* before, at or after
22 the commencement time.

23 (2) The amendment made by item 5 of this Schedule also applies in relation
24 to anything:

- 25 (a) done at or after the commencement time; and
26 (b) covered by a permission given under section 23 of the *Civil*
27 *Aviation Act 1988* at or after the commencement time.

Schedule 2 Carriers' liability insurance

Part 1 Main amendments

- 1 (3) The amendments made by items 11, 12 and 13 of this Schedule apply in
2 relation to an application for an AOC made before, at or after the
3 commencement time.
- 4 (4) The amendments made by items 19, 20, 21, 22, 24, 26 and 29 of this
5 Schedule apply in relation to a flight or operation:
6 (a) conducted or carried out at or after the commencement time;
7 and
8 (b) covered by an AOC issued before, at or after the
9 commencement time.
- 10 (5) Regulations referred to in paragraph 98(3)(ba) of the *Civil Aviation Act*
11 *1988*, inserted by item 28 of this Schedule, may be expressed to apply
12 in relation to an application for a permission made before, at or after the
13 commencement time.
- 14 (6) Regulations referred to in paragraph 98(3)(bb) of the *Civil Aviation Act*
15 *1988*, inserted by item 28 of this Schedule, may be expressed to apply
16 in relation to insurance and arrangements required under that Act
17 before, at or after the commencement time.
- 18 (7) The amendments made by items 31, 32, 33, 34, 35, 37, 38, 39, 40, 41,
19 42 and 43 of this Schedule apply in relation to a passenger-carrying
20 operation engaged in, or proposed to be engaged in, at or after the
21 commencement time.

50 Saving provisions

- 22 (1) If, immediately before the commencement time, a condition specified in
23 a permission under section 25, 26 or 27A of the *Civil Aviation Act 1988*
24 was in force, the condition has effect, from the commencement time, as
25 if it had been imposed under that section as amended by this Part.
26
- 27 (2) If, immediately before the commencement time, a notice given under
28 subsection 41C(1) or 41CA(1) of the *Civil Aviation (Carriers' Liability)*
29 *Act 1959* was in force, the notice has effect, from the commencement
30 time, as if it had been given under section 41JA of that Act as amended
31 by this Part.
- 32 (3) If, immediately before the commencement time, regulations made for
33 the purposes of paragraph 41K(a), (b) or (c) of the *Civil Aviation*
34 *(Carriers' Liability) Act 1959* were in force, the regulations have effect,
35 from the commencement time, as if they had been made for the
36 purposes of that paragraph as in force at the commencement time.
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2 **Part 2—Amendments conditional on the Civil**
3 **Aviation Legislation Amendment (1999**
4 **Montreal Convention and Other Measures)**
5 **Act 2008**

6 *Civil Aviation Act 1988*

7 **51 Subsection 27AF(2)**

8 After “carriage by air covered by Part”, insert “IA,”.

9 *Civil Aviation (Carriers' Liability) Act 1959*

10 **52 Section 41B (definition of *passenger-carrying operation*)**

11 After “passengers to which Part”, insert “IA,”.

12 **53 Saving provision**

13 (1) In this item:

14 *Part 1 commencement time* means the time at which Part 1 of this
15 Schedule commences.

16 *Part IA notice* means a notice given under subsection 41C(1) or
17 41CA(1) of the *Civil Aviation (Carriers' Liability) Act 1959*, as in force
18 before the Part 1 commencement time, in relation to carriage to which
19 Part IA of that Act applies.

20 (2) If, immediately before the Part 1 commencement time, a Part IA notice
21 was in force, the notice has effect, from the commencement of this item,
22 as if it had been given under section 41JA of that Act as in force at the
23 commencement of this item.

24 *Civil Aviation Legislation Amendment (1999 Montreal*
25 *Convention and Other Measures) Act 2008*

26 **54 Item 7 of Schedule 1**

27 Repeal the item.