

TASMANIA

**CIVIL AVIATION (CARRIERS' LIABILITY)
AMENDMENT BILL (No. 2) 2002**

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**CIVIL AVIATION (CARRIERS' LIABILITY)
AMENDMENT BILL (No. 2) 2002**

*(Brought in by the Minister for Infrastructure, the
Honourable James Glennister Cox)*

A BILL FOR

An Act to amend the *Civil Aviation (Carriers' Liability) Act 1963*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Civil Aviation (Carriers' Liability) Amendment Act 2002*.

Commencement

2. This Act commences on the day on which this Act receives the Royal Assent.

Principal Act

3. In this Act, the *Civil Aviation (Carriers' Liability) Act 1963** is referred to as the Principal Act.

*No. 6 of 1963

Section 2 amended (Interpretation)

4. Section 2(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition before the definition of "Commonwealth Act":

"applied provisions" means the provisions of the Commonwealth Act as they apply under this Act as a law of this State;

- (b) by inserting the following definition after the definition of "Commonwealth Act":

"Commonwealth authority" means an authority or officer of the Commonwealth;

- (c) by omitting "section 41 of that Act." from the definition of "Commonwealth Regulations" and substituting "section 41 of that Act;"

- (d) by inserting the following definitions after the definition of "Commonwealth Regulations":

"Commonwealth/State scheme"
means –

- (a) the Commonwealth Act; and
(b) the provisions of the Commonwealth Act as applied by this Act and the corresponding legislation of other States;

"State" includes a Territory;

"State authority" means an authority or officer of this State.

Section 5A inserted

5. After section 5 of the Principal Act, the following section is inserted:

Administration of Commonwealth/State scheme as Commonwealth Act

5A. (1) It is the intention of the Parliament that the Commonwealth/State scheme, to the extent it operates by force of this Act, should be administered and enforced in the same way as the Commonwealth Act and the Commonwealth Regulations.

(2) To that end –

- (a) Commonwealth authorities have the same powers to enforce the applied provisions as they have to enforce the Commonwealth Act and the Commonwealth Regulations; and
- (b) the laws of the Commonwealth apply as laws of this State to offences against the applied provisions as if they were offences against the Commonwealth Act or the Commonwealth Regulations and not offences against the laws of this State.

(3) For the purposes of this section, a reference in a Commonwealth law to a provision of that or another Commonwealth law is taken to be a reference to that provision as applying by virtue of this section.

(4) Without limiting subsection (2)(b), the laws of the Commonwealth that apply to offences against the applied provisions under that subsection are taken to include the following Acts (including an Act

enacted in substitution for one of the following Acts),
as amended from time to time:

- (a) *Acts Interpretation Act 1901*;
- (b) *Crimes Act 1914*;
- (c) *Director of Public Prosecutions Act 1983*;
- (d) *Evidence Act 1995*.

(5) Nothing in this Act –

- (a) derogates from the powers of State authorities to enforce the applied provisions; or
- (b) imposes a duty on Commonwealth authorities to enforce the applied provisions.

(6) Without limiting the generality of subsection (5)(a) –

- (a) the Minister may apply to a court of competent jurisdiction for an injunction restraining a carrier from engaging in prohibited carriage; and
- (b) for that purpose, a reference in section 41J of the Commonwealth Act, as applied and incorporated in this Act, to a Commonwealth authority is taken to include a reference to the Minister.