

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, October, 1952.*

New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

Act No. , 1952.

An Act to make provision in respect of liability for damage caused by aircraft; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. This Act may be cited as the "Damage by Aircraft Act, 1952". Short title.

18233 52—

2.

Damage by Aircraft.

2. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather, and all the 5 circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of the Air Navigation Regulations are duly complied with.

Liability in respect of trespass, nuisance and surface damage by aircraft.

12, 13 & 14 Geo. VI, c. 67, s. 40, cf. N.Z. 1948 No. 12, s. 5 (3).

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person 10 in, or an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without 15 proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which—

- 20 (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the 25 said loss or damage;

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(3) Where the aircraft concerned has been bona 30 fide demised, let or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references 35 therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

12, 13 & 14 Geo. VI, c. 67, s. 49 (2); cf. N.Z. 1948 No. 12, s. 5 (4).

(4)

Damage by Aircraft.

(4) This section shall bind the Crown.

(5) In this section—

5 “Air Navigation Regulations” means the Air
Navigation Regulations made under the Air
Navigation Act 1920-1950 of the Parliament of
the Commonwealth and includes such of the
provisions of those Regulations as are applic-
able to and in respect of air navigation within
10 New South Wales by virtue only of the Air
Navigation Act, 1938-1947;

“article” includes mail or animal;

cf. 12, 13 &
14 Geo. VI,
c. 67,
s. 63 (4).

“loss or damage” includes, in relation to persons,
loss of life and personal injury.

cf. *Ibid.* s. 63
(3).

No. , 1952.

A BILL

To make provision in respect of liability for damage caused by aircraft; and for purposes connected therewith.

[MR. C. E. MARTIN;—1 *October*, 1952.]

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14 Geo. VI,
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s. 63 (4).

“loss or damage” includes, in relation to persons,
loss of life and personal injury.

cf. *Ibid.* s. 63
(3).

MEMORANDUM

1. The purpose of this memorandum is to inform you of the results of the investigation conducted by the Air Force Inspector General regarding the activities of the Air Force Reserve during the year 1917.

2. The investigation was conducted by the Air Force Inspector General, who reported to the Secretary of War on the 15th day of January, 1918.

3. The results of the investigation show that the Air Force Reserve has been maintained in accordance with the provisions of the Act of March 3, 1917, and that the Reserve has been able to meet the requirements of the War Department during the year 1917.

4. It is recommended that the Air Force Reserve be continued in its present form, and that the War Department be kept advised of any changes in the Reserve during the year 1918.

Very truly yours,
 [Signature]
 [Title]

Approved: [Signature]
 [Title]

New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 46, 1952.

An Act to make provision in respect of liability for damage caused by aircraft; and for purposes connected therewith. [Assented to, 28th November, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Damage by Aircraft Act, 1952". Short title.

28937

2.

Damage by Aircraft.

Liability
in respect
of trespass,
nuisance
and surface
damage by
aircraft.

12, 13 & 14
Geo. VI,
c. 67, s. 40.

cf. N.Z. 1948
No. 12, s. 5
(3).

2. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather, and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the provisions of the Air Navigation Regulations are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which—

- (a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and
- (b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage;

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

12, 13 & 14
Geo. VI,
c. 67, s. 49
(2).

cf. N.Z.
1948
No. 12, s. 5
(4).

(3) Where the aircraft concerned has been bona fide demised, let or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

Damage by Aircraft.

(4) This section shall bind the Crown.

(5) In this section—

“Air Navigation Regulations” means the Air Navigation Regulations made under the Air Navigation Act 1920-1950 of the Parliament of the Commonwealth and includes such of the provisions of those Regulations as are applicable to and in respect of air navigation within New South Wales by virtue only of the Air Navigation Act, 1938-1947;

“article” includes mail or animal;

cf. 12, 13 &
14 Geo. VI,
c. 67,
s. 63 (4).

“loss or damage” includes, in relation to persons, loss of life and personal injury.

cf. *Ibid.* s. 63
(3).

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1952.

[4d.]

Home, v. Aircraft

(1) This section shall bind the Crown

(2) In this section -

"Air Navigation Regulations" means the Air Navigation Regulations made under the Air Navigation Act 1920, 1930 of the Parliament of the Commonwealth and includes each of the provisions of those Regulations as are applicable to and in respect of air navigation within New South Wales by virtue only of the Air Navigation Act, 1932-1947

(3) Includes mail or cargo

"loss or damage" includes, in relation to persons, loss of life and personal injury

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 October, 1952.*

New South Wales.



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ELIZABETHÆ II REGINÆ

Act No. 46, 1952.

An Act to make provision in respect of liability for damage caused by aircraft; and for purposes connected therewith. [Assented to, 28th November, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Damage by Aircraft Act, 1952". Short title.

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. J. TULLY,
Acting Chairman of Committees of the Legislative Assembly.

Damage by Aircraft.

Liability
in respect
of trespass,
nuisance
and surface
damage by
aircraft.

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(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

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c. 67,
s. 63 (4).

“loss or damage” includes, in relation to persons, loss of life and personal injury.

cf. *Ibid.* s. 63
(3).

*In the name and on behalf of Her Majesty I assent to
this Act.*

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 28th November, 1952.*

