

1980-81-82

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 24 March 1982

(*Minister for Transport*)

A BILL

FOR

An Act to amend the *Civil Aviation (Carriers' Liability) Act 1959*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1. (1)** This Act may be cited as the *Civil Aviation (Carriers' Liability) Amendment Act 1982*.

(2) The *Civil Aviation (Carriers' Liability) Act 1959*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2. (1)** Sections 1 and 2 shall come into operation on the date on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on such date as is, or on such respective dates as are, fixed by Proclamation.

Interpretation

3. Section 26 of the Principal Act is amended—

- (a) by adding “and includes a cargo airline licence, a supplementary airline licence and a cargo supplementary airline licence in force under the Air Navigation Regulations” at the end of the definition of “airline licence” in sub-section (1); and 5
- (b) by adding “and includes a cargo charter licence in force under the Air Navigation Regulations” at the end of the definition of “charter licence” in sub-section (1).

4. (1) Section 31 of the Principal Act is repealed and the following section 10 is substituted:

Limitation of liability

“31. (1) Subject to the regulations relating to passenger tickets, the liability of a carrier under this Part in respect of each passenger, by reason of his injury or death resulting from an accident, is limited to— 15

- (a) where neither paragraph (b) nor paragraph (c) applies—\$100,000;
- (b) where, at the date of the accident, a regulation was in force prescribing an amount other than \$100,000 for the purposes of this sub-section but paragraph (c) does not apply—the amount prescribed by that regulation; or 20
- (c) where an amount that exceeds—
 - (i) if, at the date of the accident, no regulation was in force as mentioned in paragraph (b)—\$100,000; or
 - (ii) if, at the date of the accident, a regulation prescribing an amount was in force as mentioned in paragraph (b)—the amount prescribed by that regulation, 25

is specified, in the contract of carriage pursuant to which the passenger was carried, as the limit of the carrier’s liability—the amount so specified.

“(2) Subject to the regulations relating to baggage checks, the liability of a carrier under this Part in respect of the destruction or loss of, or injury to, the baggage of any one passenger, being baggage that is, or includes, registered baggage, is limited to— 30

- (a) where neither paragraph (b) nor paragraph (c) applies—\$900;
- (b) where, at the date of the occurrence that caused the destruction, loss, or injury, a regulation was in force prescribing an amount other than \$900 for the purposes of this sub-section but paragraph (c) does not apply—the amount prescribed by that regulation; or 35
- (c) where an amount that exceeds—
 - (i) if, at the date of the occurrence referred to in paragraph (b), no regulation was in force as mentioned in that paragraph—\$900; 40
 - or

(ii) if, at the date of the occurrence referred to in paragraph (b), a regulation prescribing an amount was in force as mentioned in that paragraph—the amount prescribed by the regulation,
is specified, in the contract of carriage pursuant to which the passenger was carried, as the limit of the carrier's liability—the amount so specified.

“(3) The liability of a carrier under this Part in respect of the destruction or loss of, or injury to, the baggage, other than registered baggage, of any one passenger is limited to—

- (a) where neither paragraph (b) nor paragraph (c) applies—\$90;
- (b) where, at the date of the occurrence that caused the destruction, loss or injury, a regulation was in force prescribing an amount other than \$90 for the purposes of this sub-section but paragraph (c) does not apply—the amount prescribed by that regulation; or
- (c) where an amount that exceeds—
- (i) if, at the date of the occurrence referred to in paragraph (b), no regulation was in force as mentioned in that paragraph—\$90; or
- (ii) if, at the date of the occurrence referred to in paragraph (b), a regulation prescribing an amount was in force as mentioned in that paragraph—the amount prescribed by that regulation, is specified, in the contract of carriage pursuant to which the passenger was carried, as the limit of the carrier's liability—the amount so specified.”.

(2) Notwithstanding the repeal effected by sub-section (1), section 31 of the Principal Act continues to operate in relation to—

- (a) the liability imposed on a carrier by section 28 of the *Civil Aviation (Carriers' Liability) Act 1959* in respect of an accident that took place before the date of commencement of this section; and
- (b) the liability imposed on a carrier by section 29 of the *Civil Aviation (Carriers' Liability) Act 1959* in respect of an occurrence that took place before the date of commencement of this section.

NOTE

1. No. 2, 1959, as amended. For previous amendments, see No. 38, 1962; No. 93, 1966; No. 54, 1970; No. 216, 1973; and Nos. 91 and 126, 1976.

