

No. 5704.

An Act relating to Liability in respect of Damage caused by Aircraft, and for other purposes.

[10th November, 1953.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Wrongs (Damage by Aircraft) Act 1953* and shall be read and construed as one with the *Wrongs Act 1928* and any Act amending the same all of which Acts and this Act may be cited together as the *Wrongs Acts*.

Short title construction and citation.
Nos. 3807, 4070, 4380, 5382, 5594.

2. In this Act unless inconsistent with the context or subject-matter:—

“Air Navigation Regulations” means the Air Navigation Regulations made and as in force from time to time under the Commonwealth Act and includes such of the provisions of those Regulations as apply to and in relation to air navigation within Victoria by virtue of the *Air Navigation Act 1937*.

“Air Navigation Regulations.”

No. 4502.

“Article” includes mail and postal articles and animals.

“Article.”

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

“Loss or damage.”

“The Commonwealth Act” means the *Air Navigation Act 1920–1950* of the Commonwealth of Australia and if that Act is amended includes that Act as amended from time to time.

“The Commonwealth Act.”

3. No

Limitation of liability in respect of trespass or nuisance by flying over property.
Comp. N.S.W.
No. 46 of 1952
s. 2 (1).

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

Liability for damage by aircraft or articles falling therefrom recoverable without proof of negligence.
Comp. N.S.W.
No. 46 of 1952
s. 2 (2), (3).

4. (1) Where material loss or damage is caused to any person or property on land or water by or by a person in or by 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 from the owner of the aircraft 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:

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

(a) damages in respect of the said loss or damage are recoverable from the owner by virtue only of the foregoing provisions of this sub-section; 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.

(2) Where the aircraft concerned has been *bona fide* demised chartered 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 the last preceding sub-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 chartered let or hired out.