

(5) Where regulations are made by the Governor under the authority of subsection (3) of this section, any reference in the Commonwealth Act to regulations made thereunder shall, in respect of the application of the Commonwealth Act by virtue of this Act, be construed as including a reference to regulations made by the Governor and as excluding a reference to any Commonwealth regulations that are inconsistent therewith.

---

## DAMAGE BY AIRCRAFT.

---

### No. 7 of 1963.

AN ACT to make provision in respect of liability  
for damage caused by aircraft and for matters  
incidental thereto. [2 May 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  
and com-  
mencement.

**1**—(1) This Act may be cited as the *Damage by Aircraft Act 1963*.

(2) This Act shall commence on a date to be fixed by proclamation.

Interpre-  
tation.

**2** In this Act, unless the contrary intention appears—

“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 this State by virtue of the *Air Navigation Act 1937*;

“article” includes mail and postal articles;

“Commonwealth Act” means the *Air Navigation Act 1920-1961* of the Commonwealth and includes that Act as amended from time to time and any Commonwealth Act passed in substitution for that Act;

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

**3** No action lies in respect of trespass, or in respect of nuisance, by reason only of—

(a) the flight of an aircraft over any property at a height above the ground that, having regard to the wind, the weather, and all the circumstances, is reasonable; or

(b) the ordinary incidents of such a flight,

so long as the Air Navigation Regulations are complied with.

Limitation of liability in respect of trespass, &c., by flying over property. Cf. 12, 13 & 14 Geo. 6, c. 67 (Imp.), s. 40 (1). No. 12 of 1948 (No. 2), s. 5 (3). No. 46 of 1952 (N.S.W.), s. 2 (1). No. 6420 (Vic.), s. 30.

**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, animal, or person falling from, an aircraft while the aircraft is in flight, or is taking off, or is 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 are 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.

Liability for damage by aircraft or articles, &c., falling therefrom. Imp., s. 40 (2). N.Z., s. 5 (3). N.S.W., s. 2 (2), (3). Vic., s. 31.

(2) Notwithstanding anything in subsection (1) of this section, where material loss or damage is caused as mentioned in that subsection in circumstances in which—

(a) damages in respect of that loss or damage are recoverable from the owner by virtue only of the provisions of that subsection; and

(b) a legal liability is created in some person other than the owner to pay damages in respect of that loss or damage,

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

(3) Where an aircraft has been 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, this section has effect as if for references to the owner there were substituted references to the person to whom the aircraft has been so demised, chartered, let, or hired out.

## INFLAMMABLE LIQUIDS.

### No. 8 of 1963.

AN ACT to amend the *Inflammable Liquids Act*

1929.

[2 May 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:—