

AVIATION INSURANCE CLAUSES GROUP

1 December 2021

Chair: Graham Spencer-Brown
Secretariat: International Underwriting Association
8th Floor, 1 Minster Court, Mincing Lane
London, EC3R 7AA
Tel: 020 7617 5447

To: Bill Smith, Chair, LIIBA Aviation Executive Committee
Jette Varnals, Chair, IUA Aviation Technical Committee
Daniel Warburg, Chair, LMA Aviation Committee

[LETTER SENT BY EMAIL AND PUBLISHED ON THE AICG WEBSITE]

Dear Chairs,

**AICG CONSULTATION DRAFT 63 ('CD63')
CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1959 – AUSTRALIA**

In Q3 2021, AICG received a request from a market participant to consider the legislative references found within AVN57A (Australia). Specifically, it was suggested that the reference to 'Civil Aviation (Carriers' Liability) Act 1959' be considered in light of the Aviation Legislation Amendment (Liability and Insurance) Act 2020, which came into effect on Thursday 17th June 2020.

The AICG considered the request further and agreed that this administrative update to the clause to account for the 2020 Act would be necessary. It sought expert advice and concluded that it would be appropriate to refer to both the Civil Aviation (Carriers' Liability) Act 1959 and the Aviation Legislation Amendment (Liability and Insurance) Act 2020, jointly termed within the clause as 'The Acts'.

This clause has been considered by the full AICG membership and the Chair has agreed that it proceed to market consultation forthwith. The draft clause is attached to this letter for convenience, in addition to a tracked change version highlighting the updates when compared to AVN57A (Australia), and will also shortly be added to the AICG website, accessible via this hyperlink: [AICG Activity](#).

We would welcome comments on the proposed clause – both on the specific drafting and its effect as appropriate. AICG consultation drafts are normally subject to 30-day consultations, however, in light of the busy December period for market participants, the AICG Chair has agreed a 45-day consultation period. As such, please could you provide any comments on the clauses to the AICG Secretariat via the contact details above, addressed to either myself or the AICG Chair, or preferably to christopher.jones@iua.co.uk by close of business on Friday 14 January 2022.

Yours sincerely,



Christopher Jones on behalf of Graham Spencer-Brown
(Secretary, AICG)

c.c. Josh Hutson Flynn (LMA)
Geraldine Wright (LIIBA)
Tom Hughes (IUA)

CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1959 – AUSTRALIA
Aviation Legislation Amendment (Liability and Insurance) Act 2020
(Hereinafter called “The Acts”)
(applicable to Passenger Liability only)

Attaching to and forming part of Policy No.

Issued in the name of

IT IS UNDERSTOOD AND AGREED THAT:-

1. The Policy to which this endorsement is attached is hereby amended to provide coverage in compliance with the prescribed requirements referred to in the Acts.
2. Such coverage shall be within the limits of liability in the Policy and not in addition to or in excess thereof.
3. Such coverage shall continue until cancelled by Insurers or their authorised representative giving the appropriate notice.
4. Unless the Policy otherwise provides the following exclusions not prohibited by the provisions of the Acts shall apply:-
 - 4.1 War Exclusion Clause AVN 48B paragraphs (a) and (b) or equivalent clause(s).
 - 4.2 Noise and Pollution and Other Perils Exclusion Clause AVN 46B or equivalent clause(s).
 - 4.3 Nuclear Risks Exclusion Clause AVN 38B or equivalent clause(s).
 - 4.4 Bodily Injury to or sickness, disease or death of any employee arising out of and in the course of his/her employment.
5. The coverage for *personal injury* as required by the Acts to be provided by the Policy to which this endorsement is attached shall be understood to mean bodily injury, sickness, disease, fright, shock or mental anguish including death resulting therefrom.
6. If Insurers are called upon to provide coverage to the Insured in compliance with the Acts including the defence and legal costs associated therewith and if by reason of the terms, conditions, limitations and exclusions of the Policy such coverage would not have been provided except for this endorsement then the Insured will reimburse Insurers for such payments made in providing coverage under the Acts.
7. The terms, conditions, limitations and exclusions of the Policy shall apply to claims made under the Policy which (a) are in excess of the limits specified in the Acts or (b) are not governed by the provisions of the Acts.

AVN*** (Australia) DATE**

CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1959 — AUSTRALIA
Aviation Legislation Amendment (Liability and Insurance) Act 2020
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(applicable to Passenger Liability only)

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Issued in the name of

— IT IS UNDERSTOOD AND AGREED THAT:-

1. The Policy to which this endorsement is attached is hereby amended to provide coverage in compliance with the prescribed requirements referred to in ~~Part IVA subsection 41C(2) of the Civil Aviation (Carriers' Liability) Act 1959~~ the Acts.
2. Such coverage shall be within the limits of liability in the Policy and not in addition to or in excess thereof.
3. Such coverage shall continue until cancelled by Insurers or their authorised representative giving the appropriate notice.
4. Unless the Policy otherwise provides the following exclusions not prohibited by the provisions of the ~~said Act~~ Acts shall apply:-
 - 4.1 War Exclusion Clause AVN 48B paragraphs (a) and (b) or equivalent clause(s).
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6. If Insurers are called upon to provide coverage to the Insured in compliance with the ~~said Act~~ Acts including the defence and legal costs associated therewith and if by reason of the terms, conditions, limitations and exclusions of the Policy such coverage would not have been provided except for this endorsement then the Insured will reimburse Insurers for such payments made in providing coverage under the ~~said Act~~ Acts.
7. The terms, conditions, limitations and exclusions of the Policy shall apply to claims made under the Policy which (a) are in excess of the limits specified in the ~~said Act~~ Acts or (b) are not governed by the provisions of the ~~said Act~~ Acts.

CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1959 – AUSTRALIA
Aviation Legislation Amendment (Liability and Insurance) Act 2020
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AVN*** (Australia) DATE**