



# **Commonwealth Motor Vehicles (Liability) Act 1959**

**Act No. 94, 1959**

## **Compilation No. 4**

<b>Compilation date:</b>	22 March 2017
<b>Includes amendments up to:</b>	Act No. 13, 2017
<b>Registered:</b>	22 March 2017

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Commonwealth Motor Vehicles (Liability) Act 1959* that shows the text of the law as amended and in force on 22 March 2017 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act relating to the Liability of the Commonwealth and Commonwealth Authorities in respect of Death or Personal Injury caused by, or arising out of the use of, certain Motor Vehicles**

## **1 Short title**

This Act may be cited as the *Commonwealth Motor Vehicles (Liability) Act 1959*.

## **2 Commencement**

This Act shall come into operation on the day on which it receives the Royal Assent.

## **3 Interpretation**

(1) In this Act, unless the contrary intention appears:

***Commonwealth authority*** means:

- (a) a body corporate incorporated for a public purpose by a law of the Commonwealth or of a Territory other than the Australian Capital Territory or the Northern Territory; or
- (b) a body corporate that is declared by the regulations to be a Commonwealth authority for the purposes of this Act;

but does not include the Australian Capital Territory or the Northern Territory or an incorporated company or association.

***driver***, in relation to a motor vehicle, includes a person in charge of the motor vehicle.

***lease***, in relation to a motor vehicle, means any agreement or arrangement under which the vehicle (whether for any or no consideration) is made available exclusively to a person for the person's use.

***motor vehicle*** means a motor car, motor carriage, motor cycle, motor omnibus, motor tractor or other vehicle propelled wholly or partly by volatile spirit or by steam, gas, oil or electricity or by any means other than human or animal power, and includes a trailer and a semi-trailer but does not include a vehicle used on a railway or tramway.

***third-party policy*** means a policy of insurance effected for the purposes of, and in accordance with the requirements of, a law of a State or Territory relating to the compulsory insurance of owners and drivers of motor cars or motor vehicles, as defined by that law, against liability in respect of the death of, or bodily injury to, persons.

***uninsured motor vehicle*** means a motor vehicle in respect of which a third-party policy is not in force.

- (2) This Act does not apply in relation to proceedings arising out of an occurrence that took place outside Australia and the Territories.

#### **4 Extension of Act to Territories**

This Act extends to all the Territories.

#### **5 Conclusive presumption of agency in respect of driving of Commonwealth vehicles**

- (1) In proceedings in which:
- (a) a claim is made against the Commonwealth or a Commonwealth authority for damages in respect of the death of, or personal injury to, a person caused by, or arising out of the use of, an uninsured motor vehicle owned by, or leased to, the Commonwealth or the Commonwealth authority; or
  - (b) a claim is made by or against the Commonwealth or a Commonwealth authority for contribution in relation to liability of the Commonwealth or the Commonwealth authority for such damages;
- the driver of the vehicle shall, for the purposes of that claim, be conclusively presumed to have been at all relevant times, with

respect to the driving of the vehicle, the agent of the Commonwealth or the Commonwealth authority, as the case may be, acting within the scope of his or her authority.

- (1A) Subsection (1) does not apply if, at all relevant times:
- (a) the vehicle was registered; or
  - (b) a motor vehicle licence was in force in respect of the vehicle; under a law of a State or Territory.
- (2) Nothing in this section shall be taken to imply ratification by the Commonwealth or the Commonwealth authority of the acts of the driver of a vehicle.
- (3) This section extends to proceedings arising out of an occurrence that took place before the commencement of this Act but after the eighth day of September, One thousand nine hundred and fifty-eight, whether the proceedings were instituted before, or are instituted after, the commencement of this Act.

## **6 Manner of trial of proceedings against the Commonwealth etc. in respect of uninsured vehicles**

Where, in proceedings in a Court of a State or Territory, a claim is made against the Commonwealth or a Commonwealth authority for damages in respect of the death of, or personal injury to, a person caused by, or arising out of the use of, an uninsured motor vehicle, the question whether the claim shall be tried with or without a jury is to be determined in accordance with the law that would be applicable, in proceedings in that Court, in the case of a like claim against the owner of a vehicle in respect of which there was in force a third-party policy effected for the purposes of, and in accordance with the requirements of, the law of that State or Territory.

## **7 Regulations**

The Governor-General may make regulations declaring a body corporate, being a body corporate incorporated for a public purpose

## Section 7

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by a law of the Northern Territory, to be a Commonwealth authority for the purposes of this Act.



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

## Endnotes

### Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnote 2—Abbreviation key

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Commonwealth Motor Vehicles (Liability) Act 1959	94, 1959	4 Dec 1959	4 Dec 1959 (s 2)	
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	31 Dec 1973 (s 2)	s 9(1) and 10
Commonwealth Motor Vehicles (Liability) Amendment Act 1978	67, 1978	22 June 1978	1 July 1978 (s 2)	—
Commonwealth Motor Vehicles (Liability) Amendment Act 1997	110, 1997	7 July 1997	7 July 1997 (s 2)	—
Statute Update (A.C.T. Self-Government (Consequential Provisions) Regulations) Act 2017	13, 2017	22 Feb 2017	Sch 1 (item 6): 22 Mar 2017 (s 2(1) item 2)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
s 3 .....	am No 216, 1973; No 67, 1978; No 110, 1997; No 13, 2017
s 5 .....	am No 110, 1997
s 7 .....	ad No 67, 1978