



Legislation (Deferral of Sunsetting—Carriers’ Liability Regulations) Certificate 2018

I, Christian Porter, Attorney-General, make the following certificate.

Dated 24 August 2018

Christian Porter
Attorney-General

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1 Name

This instrument is the *Legislation (Deferral of Sunsetting—Carriers' Liability Regulations) Certificate 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	31 August 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under paragraph 51(1)(c) of the *Legislation Act 2003*.

4 Definitions

In this instrument:

Act means the *Civil Aviation (Carriers' Liability) Act 1959*.

Department means the Department of Infrastructure, Regional Development and Cities.

Legislation Act means the *Legislation Act 2003*.

Regulations means the *Civil Aviation (Carriers' Liability) Regulations 1991*.

5 Statement of reasons for issue of certificate

For the purposes of paragraph 51(2)(a) of the *Legislation Act*, this section sets out the statement of the reasons for the issue of this certificate.

Statement of reasons

I am satisfied that the Regulations would, apart from the operation of Part 4 of Chapter 3 of the *Legislation Act*, be likely to cease to be in force within 12 months after the sunset day for the regulations.

Section 6

The Regulations prescribe certain requirements for carriers' liability, including standard exclusion clauses to be incorporated in contracts of insurance, and the caps set on civil liability for death and injury of passengers and for loss and damage to baggage.

Some of the Act's provisions relating to domestic flights are not consistent with community and industry expectations. Accordingly, the Department has been reviewing both the Act and the Regulations, with a view to introducing a Bill to amend the Act during the current Parliament.

The Regulations establish low thresholds for damages, which may be below community expectations. Increasing the thresholds while maintaining the broader status quo would necessitate an increase in minimum insurance levels, which cannot be done without amending the Act. Further, with the broader legislative framework under review, remaking the Regulations in their current form, only to change them soon after, is not considered good practice.

As a program of change that requires changes to the Act, it is unlikely that updated Regulations could be made before the sunseting day. Even if the Bill were to pass before 1 October 2018, there would not be sufficient time for the making of replacement Regulations before 1 October 2018. The Minister for Infrastructure and Transport has advised that, in accordance with subparagraph 51(1)(b)(i) of the Legislation Act, the Regulations will cease to be in force (by way of active repeal and replacement) within 12 months after their sunseting day.

A deferral of the sunseting day would avoid the need to remake the Regulations in their current form for the limited period they would be required prior to their repeal and remaking following the review and reform of the carriers' liability legislative framework.

6 Deferral of sunseting of the Regulations

The Regulations, for which the sunseting day is 1 October 2018, are taken to cease to be in force under section 51 of the Legislation Act on 1 October 2019.

7 Repeal of this instrument

This instrument is repealed at the start of 2 October 2019.