

COMMONWEALTH MOTOR VEHICLES
(LIABILITY).

No. 94 of 1959.

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.

[Assented to 4th December, 1959.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

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

Commence-
ment.

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

Interpretation.

3.—(1.) In this Act, unless the contrary intention appears—

“Commonwealth authority” means a body corporate incorporated for a public purpose by a law of the Commonwealth or of a Territory, but does not include an incorporated company or association;

“driver”, in relation to a motor vehicle, includes a person in charge of the motor vehicle;

“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;

“Territory” means a Territory of the Commonwealth;

“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.

Extension of
Act to
Territories.

4. This Act extends to all the Territories.

Conclusive
presumption of
agency in
respect of
driving of
Commonwealth
vehicles.

5.—(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 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 authority.

(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. 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.

Manner of trial of proceedings against the Commonwealth &c., in respect of uninsured vehicles.