PANORAMIC

AVIATION LIABILITY

New Zealand



LEXOLOGY

Aviation Liability

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APPLICABLE TREATIES

Major air law treaties

To which major air law treaties related to carrier liability for passenger injury or death is your state a party?

New Zealand is a party to:

- the Montreal Convention (1999) (ratified 2002);
- the Tokyo Convention (1963) (ratified 1974); and
- the Warsaw Convention (1929) (ratified 1937) and its amending instruments: the Hague Protocol (1955) (ratified 1967), the Guadalajara Convention (1961) (ratified 1969) and the Montreal Protocol No. 1 (1975) (ratified 1999), No. 2 (1975) (ratified 1999) and No. 4 (1975) (ratified 1999).

The provisions of the Montreal Convention, the Warsaw Convention (as amended by the Hague Protocol and the Montreal Protocol Nos. 1, 2 and 4) and the Guadalajara Convention were implemented into New Zealand domestic law by section 91C of the Civil Aviation Act 1990, this is now embodied in s 256 of the Civil Aviation Act 2023.

The Aviation Crimes Act 1972 has given force to certain provisions of the Tokyo Convention (1963), the Hague Convention (1970), the Montreal Convention 1971 and the Montreal Protocol (1988) in legislating for offences on board and affecting aircraft and the safety of civil aviation and airports in New Zealand domestic law.

Law stated - 20 October 2026

INTERNATIONAL CARRIAGE – LIABILITY FOR PASSENGER INJURY OR DEATH

Montreal Convention and Warsaw Convention

Do the courts in your state interpret the similar provisions of the Montreal Convention and the Warsaw Convention in the same way?

There is no direct authority on this point. It is expected that the New Zealand courts will interpret the provisions consistently with other common law jurisdictions, particularly England, Canada, and Australia.

Law stated - 20 October 2026

Montreal Convention and Warsaw Convention

Do the courts in your state consider the Montreal Convention and Warsaw Convention to provide the sole or exclusive basis for air carrier liability for passenger injury or death?

In *Emery Air Freight Corp v Nerine Nurseries* [1997] 3 NZLR 723 (CA), the New Zealand Court of Appeal expressly adopted the decision of the House of Lords in *Sidhu v British Airways* [1997] AC 430 (HL), which set out that the Montreal Convention and the earlier Warsaw

Conventions provide the sole basis for liability of an air carrier performing international carriage. While New Zealand does have a bar on personal injury proceedings in many circumstances, there is an express exclusion for any international convention relating to the carriage of passengers (section 317(5) of the Accident Compensation Act 2001).

Law stated - 20 October 2026

Definition of "carrier"

In your state, who is considered to be a "carrier" under the Montreal and Warsaw Conventions?

There is limited authority in New Zealand on who is considered to be a "carrier" under the Warsaw Convention. The Court of Appeal in ***Emery Air Freight Corp v Nerine Nurseries*** [1997] 3 NZLR 723 (CA) clarified that a party must physically perform the part of the carriage where the damage occurred in order to be a "successive carrier'" under the Warsaw Convention; performance of the overall contractual obligations of the actual carrier without physical performance is not sufficient. However, it is expected that the Court would not apply this to the Montreal Convention.

New Zealand courts will generally interpret domestic legislation that incorporates international Conventions (including the Montreal and Warsaw Conventions) in the same way as other common law jurisdictions. Accordingly, it is likely that the courts would follow ***Rolls-Royce plc v Heavylift-Volga Dnepr Ltd*** [2000] CLC 1120 and would consider that ground handling agents and other service providers are not carriers under the Conventions.

Law stated - 20 October 2026

Carrier liability condition

How do the courts in your state interpret the conditions for air carrier liability – "accident", "bodily injury", "in the course of any of the operations of embarking or disembarking" – for passenger injury or death in article 17(1) of the Montreal Convention and article 17 of the Warsaw Convention?

New Zealand courts have not yet interpreted or considered the meanings of "accident", "bodily injury" or "in the course of any of the operations of embarking or disembarking" under the Montreal and Warsaw Conventions.

As indicated above, New Zealand courts would likely follow the positions taken by the English, Canadian and Australian courts in applying the United States decision of ***Air France v Saks*** (1985) 470 US 392, where the Supreme Court held that accident means "an unexpected or unusual event or happening that is external to a passenger".

"Bodily injury" is likely to be interpreted in accordance with the UK House of Lords decision ***Morris v KLM Royal Dutch Airlines*** [2001] EWCA Civ 790, [2001] 3 All ER 126, which clarified that "bodily" means physical injury to the body and, as such, the only way to claim for mental injuries is where there is some physical manifestation of the injury.

It is less clear how the New Zealand courts will interpret "in the course of any of the operations of embarking or disembarking", but it is likely that the general tests of activity (what the passenger is doing at the time), control and location (is the passenger in a place where they are obliged to be for the process of embarkation or disembarkation) will apply.

Law stated - 20 October 2026

Defences and standards

How do the courts in your state interpret and apply the "no negligence" defence in article 21 of the Montreal Convention; exoneration defence in article 20 of the Montreal Convention; the "all reasonable measures" defence in article 20 of the Warsaw Convention; “recklessness” standard of article 22(5) of the Montreal Convention; and "wilful misconduct" standard of article 25 of the Warsaw Convention?

New Zealand courts have not yet reviewed these provisions but would likely consider the English line of authorities on these points persuasive, including ***Singhal v British Airways PLC*** County Court (Wandsworth) 2008 WL 4820370 on the exoneration defence, ***Antwerp United Diamond BVBA v Air Europe*** [1993] All ER 469 on the application of the "all reasonable measures" defence pursuant to article 20, and ***Horabin v British Airways*** [1952] 2 All ER 1016 on the interpretation of wilful misconduct.

Law stated - 20 October 2026

Advance payment for injury or death

Does your state require that advance payment be made to injured passengers or the family members of deceased passengers following an aircraft accident?

Under section 414(1) of the Civil Aviation Act 2023, the Governor-General may order advance payments for compensation, or arrangements for making advance payments for compensation, to relatives of passengers injured or killed during international air carriage, in accordance with article 28 of the Montreal Convention. This power has not been exercised by the Governor-General to date.

Law stated - 20 October 2026

Deciding jurisdiction

How do the courts of your state interpret each of the jurisdictions set forth in article 33 of the Montreal Convention and article 28 of the Warsaw Convention?

The New Zealand courts have not yet interpreted each of the jurisdictions set out in article 33 of the Montreal Convention and article 28 of the Warsaw Convention.

New Zealand courts recognise the doctrine of forum non conveniens (***see Wing Hung Printing Company Ltd v Saito Offshore Pty Ltd*** [2010] NZCA 502, [2011] 1 NZLR 754) and applies ***Spiliada Maritime Corp v Cansulex Ltd*** [1987] AC 460 (HL). There is no case law under New Zealand law where the courts have been asked to apply the doctrine to an action under the Montreal Convention or Warsaw Convention.

Law stated - 20 October 2026

Period of limitation

How do the courts of your state interpret and apply the two-year period of limitations in article 35 of the Montreal Convention and article 29 of the Warsaw Convention?

The New Zealand courts have not yet considered the interpretation of the two-year period of limitations in article 35 of the Montreal Convention and article 29 of the Warsaw Convention but, as noted, the Court of Appeal in ***Emery*** expressly adopted the decision of the House of Lords in ***Sidhu v British Airways*** [1997] AC 430, which provided that the Montreal Convention and the earlier Warsaw Conventions provide the sole basis for liability of an air carrier performing international carriage.

Law stated - 20 October 2026

Liability of carriage

How do the courts of your state address the liability of carriage performed by a person other than the contracting carrier under the Montreal and Warsaw Conventions?

The New Zealand courts considered the liability of a person other than the contracting carrier in ***Emery Air Freight Corporation v Nerine Nurseries Ltd*** [1997] 3 NZLR 723 (CA). The Court of Appeal held that performance in the Warsaw Convention is limited to physical and not contractual performance. As Emery was not the contracting carrier or physical carrier, it was not liable for the loss.

Law stated - 20 October 2026

DOMESTIC CARRIAGE – LIABILITY FOR PASSENGER INJURY OR DEATH

Governing laws

What laws in your state govern the liability of an air carrier for passenger injury or death occurring during domestic carriage?

New Zealand has a no-fault accident compensation scheme governed by the Accident Compensation Act 2001. The Accident Compensation Corporation (ACC) scheme provides compensatory cover for those who suffer a personal injury in New Zealand, including during domestic carriage, regardless of whether the injured party is a New Zealand citizen. The

scheme also covers nervous shock or mental injuries that occur as a result of a physical injury or a sexual assault.

The ACC scheme bars proceedings being brought for damages arising directly or indirectly out of any personal injury covered by the ACC scheme, either by the injured party or by the ACC after it has paid compensation to the injured person.

Accordingly, an air carrier's liability for passenger injury or death occurring during domestic carriage is limited to damages arising out of a mental injury not covered by the ACC scheme and exemplary damages (which is expressly excluded from the ACC scheme's statute bar), both of which would be governed by ordinary principles of negligence.

The ACC scheme explicitly provides that persons not ordinarily resident in New Zealand do not have cover under the scheme for personal injuries suffered while on board an aircraft (or while embarking or disembarking) during international carriage or where the person is on the domestic leg of an international flight that they have travelled on. This reflects that the ACC scheme should not derogate from entitlements under the Montreal and Warsaw Conventions.

Law stated - 20 October 2026

Nature of carrier liability

What is the nature of, and what are the conditions for, an air carrier's liability?

To the extent that New Zealand's ACC scheme does not apply, the air carrier's liability will generally be fault-based, in accordance with the ordinary principles of negligence.

Law stated - 20 October 2026

Liability limits

Is there any limit of a carrier's liability for personal injury or death?

To the extent that New Zealand's ACC scheme does not apply, the air carrier's liability for personal injury or death is not limited under statute; however, a carrier can limit its liability in its conditions for domestic carriage.

Law stated - 20 October 2026

Main defences

What are the main defences available to the air carrier?

The main defence to a personal injury action, other than denial that a negligent act or omission was committed is that the plaintiff was contributorily negligent.

Law stated - 20 October 2026

Damages

Is the air carrier's liability for damages joint and several?

Common law provides that an air carrier's liability for damages arising out of a tortious act is joint and several.

Law stated - 20 October 2026

Rule for apportioning fault

What rule do the courts in your state apply to apportioning fault when the injury or death was caused in whole or in part by the person claiming compensation or the person from whom the right is derived?

Section 3(1) of the Contributory Negligence Act 1947 provides that where any person suffers damage as the result partly of their own fault and partly of the fault of any other person or persons, the damages recoverable shall be reduced to such extent as the court thinks just and equitable having regard to the plaintiff's share in the responsibility for the damage. It is likely that a court would place significance on a plaintiff's age and mental capacity when deciding a just and equitable reduction of the damages recoverable.

Law stated - 20 October 2026

Statute of limitations

What is the time within which an action against an air carrier for injury or death must be filed?

The Limitation Act 2010 came into force on 1 January 2011. Section 11 of this Act contains a general principle that any claim for monetary relief at common law must be brought within six years from the date of the act or omission on which the claim is based. The section goes on to state that if a plaintiff has late knowledge of a claim, they can bring proceedings up to three years from the date that knowledge of the relevant facts is gained or reasonably ought to have been gained. Section 11 also provides for a longstop period of 15 years from the date of the act or omission on which the claim is based, regardless of whether a plaintiff has late knowledge of a claim or not.

Section 4(7) of the Limitation Act 1950 (which applies to causes of action based on acts or omissions prior to 1 January 2011) provides that an action in respect of bodily injury to any person must be brought within two years from the date on which the cause of action accrued. This provision does, however, allow for the court to agree to an extension of the relevant limitation period to six years if it considers that the delay in bringing the action was occasioned by mistake of fact or law, or by any other reasonable cause, or that the intended defendant was not materially prejudiced in his or her defence or otherwise by the delay, such that it would be just to grant the extension.

Law stated - 20 October 2026

THIRD-PARTY ACTIONS

Seeking recovery

What are the applicable procedures to seek recovery from another party for contribution or indemnity?

If litigation has commenced, the correct procedure for seeking recovery from a third party is provided in the High Court Rules 2016 (HCR). Where the defendant claims it is entitled to a contribution or an indemnity from a person who is not a party to the proceeding, it may issue a third-party notice to the third party pursuant to rule 4.4 of the HCR. Similar rules apply to District Court proceedings.

Law stated - 20 October 2026

Time limits

What time limits apply?

In the absence of a limitation period provided by contract, the Limitation Act 2010 or the Limitation Act 1950 will apply. The Limitation Act 2010 makes specific provisions for tortious claims where there is more than one tortfeasor, with a claim for contribution available for two years after the date on which liability is quantified by an agreement, award, or judgment.

Law stated - 20 October 2026

LIABILITY FOR GROUND DAMAGE

Applicable laws

What laws apply to the liability of the air carrier for injury or damage caused to persons on the ground by an aircraft accident?

There is no specific legislation that governs the liability of an air carrier for injury or damage caused to persons on the ground by an aircraft accident. New Zealand is not a signatory to the Rome Convention 1952.

Law stated - 20 October 2026

Nature and conditions of liability

What is the nature of, and what are the conditions for, an air carrier's liability for ground damage?

To the extent that the Accident Compensation Corporation (ACC) scheme does not apply, the air carrier's liability for personal injury or death caused to persons on the ground by an aircraft accident is not limited under statute.

Law stated - 20 October 2026

Liability limits

Is there any limit of carriers' liability for ground damage?

To the extent that New Zealand's ACC scheme does not apply, the air carrier's liability for personal injury or death caused to persons on the ground by an aircraft accident is not limited under statute.

Law stated - 20 October 2026

Main defences

What are the main defences available to the air carrier in a claim for damage caused on the ground?

The main defence to a personal injury action is that the plaintiff was contributorily negligent or that the claim is barred by the Accident Compensation Act 2001 for damages arising directly or indirectly out of a personal injury covered by the Act.

Law stated - 20 October 2026

LIABILITY FOR UNRULY PASSENGERS AND TERRORIST EVENTS

Applicable laws

What laws apply to the liability of the air carrier for injury or death caused by an unruly passenger or a terrorist event?

Part 9 subpart 20 of Civil Aviation Act 2023 establishes offences for unruly behaviour, which includes disruptive conduct, endangering passenger safety, failure to comply with those in command, offensive behaviour, operating portable electronic devices when it is prohibited, non-compliance with seating and safety belt instructions, smoking and carrying dangerous goods.

New Zealand's no-fault accident compensation scheme (the Accident Compensation Corporation (ACC) scheme) will generally apply in the case of injury or death caused during domestic carriage; accordingly, an air carrier's liability for such events is limited to damages arising out of a mental injury not covered by the ACC scheme or exemplary damages.

Where injury or death is caused during international carriage, an air carrier's liability will be governed by the provisions of the applicable Convention, as per section 256 of the Civil Aviation Act 2023.

Law stated - 20 October 2026

Nature and conditions of liability

What is the nature of, and what are the conditions for, an air carrier's liability for injury or death caused by an unruly passenger or a terrorist event?

Where injury or death is caused during domestic carriage, an air carrier's liability will generally be fault-based in accordance with the ordinary principles of negligence.

Where injury or death is caused during international carriage, an air carrier will be strictly liable to the extent that the event involving an unruly passenger or the terrorist event constitutes an "accident" for the purposes of the applicable Convention.

Law stated - 20 October 2026

Liability limits

Is there any limit of liability for injury or death caused by an unruly passenger or a terrorist event?

To the extent that New Zealand's ACC scheme does not apply, the air carrier's liability for personal injury or death is not limited under statute; however, a carrier can limit its liability in its conditions for domestic carriage.

In respect of injury or death caused during international carriage, an air carrier's liability is limited in accordance with the applicable Convention.

Law stated - 20 October 2026

Main defences

What are the main defences available to the air carrier in a claim for injury or death caused by an unruly passenger or a terrorist event?

In respect of injury or death caused during domestic carriage, the main defence to a personal injury action, other than denial that a negligent act or omission was committed, is that the plaintiff was contributorily negligent.

In respect of injury or death caused during international carriage, the defences available to an air carrier are those provided for in the applicable Convention.

So far as it is relevant to domestic carriage and the passengers involved, the ACC may prevent or limit claims.

Law stated - 20 October 2026

LIABILITY FOR HARM CAUSED BY DRONES

Applicable legislation

Summarise the laws or regulations related to the liability for injuries or damage caused by drones.

The operation of unmanned aircraft – or drones – is governed by parts 101 and 102 of the Civil Aviation Rules, and failure to comply with these rules will generally be an offence under the Civil Aviation (Offences) Regulations 2006 and Civil Aviation (Offences) Regulations 2025 (from 5 April 2025). However, liability for injuries or damage caused by drones is not governed

by these regulations and will instead be governed by ordinary principles of negligence. The application of the ACC scheme means that liability for injuries caused by drones in New Zealand will be limited to damage arising out of a mental injury not covered by the ACC scheme, and exemplary damages.

Law stated - 20 October 2026

CONSUMER PROTECTION AND PASSENGER RIGHTS

Applicable legislation

Summarise aviation-related consumer-protection laws or regulations related to passengers with reduced mobility, flight delays and overbooking, tarmac delay and other relevant areas.

Sections 274-277 of the Civil Aviation Act 2023 provides that an air carrier is liable for damage arising from delay in the domestic carriage of passengers. This liability is limited to the lesser of the amount of damage proved to have been sustained as a result of the delay or an amount representing 10 times the sum paid for the carriage. However, these limits do not apply if the damage resulted from an intentional or reckless act or omission by the air carrier. Section 276 goes on to provide that an air carrier is not liable for damage caused by delay if the air carrier proves that the delay was caused by weather conditions, compliance with air traffic control information, or obedience to directions given by a lawful authority, or was made necessary by force majeure or for the purpose of saving or attempting to save life. An air carrier's liability for damage arising from delay in the international carriage of passengers is governed by the applicable Convention (as per section 256 of the Civil Aviation Act 2023).

The Civil Aviation Act does not contain any further provisions concerning consumer protection, and there are no further aviation-specific consumer protection laws or regulations. An air carrier's liability for loss of, or damage to, baggage during domestic carriage will be governed by Part 5, Subpart 1 of the Contract and Commercial Law Act 2017 (as well as the terms of the applicable carriage contract), which imposes liability on a contracting air carrier for the loss of or damage to any baggage that occurs while the carrier is responsible for the baggage; however, this liability will generally be limited to NZ$2,000 per item of baggage and does not extend to baggage left in the carrier's custody prior to the carrier's acceptance for carriage or pending its collection from the carrier after the completion of carriage. Where baggage is lost or damaged during international carriage, the air carrier's liability is governed by the applicable Convention (as per section 256 of the Civil Aviation Act 2023).

In addition, air carriers must comply with Part 4 of the Consumer Guarantees Act 1993, which includes guarantees that, where consumer services are supplied (defined to include services of a kind ordinarily acquired for personal, domestic, or household use or consumption), the service will be carried out with reasonable care and skill, and will be fit for any particular purpose. This Act provides that a consumer can obtain damages from the supplier in compensation for any reduction in the value of the service below the charge paid by the consumer, as well as for any loss or damage resulting from the failure to comply with the guarantees. The Consumer Guarantees Act 1993 cannot be contracted out of, unless all parties are in trade and agree to do so.

New Zealand has ratified the United Nations Convention on the Rights of People with Disabilities, which includes articles dealing with accessibility and personal mobility; however, there are currently no laws or regulations concerning air passengers with reduced mobility or other disability-related needs. The Human Rights Act 1993 provides that it is unlawful for a person to be refused access to an aircraft that members of the public are entitled or allowed to enter by reason of that person's disability, but also provides for an exception where the disability of a person is such that there would be a risk of harm to that person or to others if that person were to have access to the aircraft and it is not reasonable to take that risk.

Law stated - 20 October 2026

LIABILITY OF GOVERNMENT ENTITIES PROVIDING SERVICES TO CARRIERS

Relevant laws
What laws apply to the liability of the government entities that provide services to the air carrier?

To the extent that a government entity is operating in a commercial capacity with third parties, its liability would normally be governed by the ordinary principles of contract and tort.

If a government entity is acting in a statutory capacity, it may have immunities under the Crown Proceedings Act 1950. Generally, decisions of government entities may be subject to judicial review.

Law stated - 20 October 2026

Nature and conditions of liability
What is the nature of, and what are the conditions for, the government's liability?

To the extent that a government entity is operating in a commercial capacity with third parties, its liability would normally be governed by the ordinary principles of contract and tort.

If a government entity is acting in a statutory capacity, it may have immunities under the Crown Proceedings Act 1950. Generally, decisions of government entities may be subject to judicial review.

Law stated - 20 October 2026

Liability limits
Are there any limitations to seeking recovery from the government entity?

To the extent that a government entity is operating in a commercial capacity with third parties, its liability would normally be governed by the ordinary principles of contract and tort.

If a government entity is acting in a statutory capacity, it may have immunities under the Crown Proceedings Act 1950. Generally, decisions of government entities may be subject to judicial review.

Law stated - 20 October 2026

CRIMINAL PROCEEDINGS

Responsibility for accidents
Can an air carrier be criminally responsible for an aviation accident?

Part 9 of the Civil Aviation Act 2023 (along with the Civil Aviation (Offences) Regulations 2006 and Civil Aviation (Offences) Regulations 2025 (from 5 April 2025)) provides for a range of criminal offences, including offences relating to safety and security. A range of penalties is also specified, including imprisonment, fines and disqualification. The number of prosecutions brought under the Civil Aviation Act 2023 (and its predecessor the Civil Aviation Act 1990) is low. In addition, section 156 of the Crimes Act 1961 imposes a duty on individuals in charge of a dangerous thing to take reasonable precautions against and to use reasonable care to avoid such danger and provides that such a person is criminally responsible for the consequences of omitting without lawful excuse to discharge that duty.

There is no corporate manslaughter offence in New Zealand, so it is unlikely that an air carrier could be held criminally responsible for any passenger injury or death that occurs in an aviation accident.

Law stated - 20 October 2026

Effect of proceedings
What is the effect of criminal proceedings against the air carrier on a civil action by the passenger or their representatives?

The no-fault accident compensation scheme (the Accident Compensation Corporation (ACC) scheme) provides that in a claim for exemplary damages against an air carrier, the court may have regard to whether a penalty has already been imposed on the air carrier for a criminal offence involving the conduct concerned in the claim for exemplary damages and, if so, the nature of the penalty. This reflects the fact that exemplary damages are punitive rather than compensatory.

Otherwise, it is unlikely that criminal proceedings against an air carrier will have any impact on a civil action by a passenger or their representative.

Law stated - 20 October 2026

Compensation
Can claims for compensation by passengers or their representatives be made against the air carrier through the criminal proceedings?

Section 32 of the Sentencing Act 2002 allows a court to impose a sentence of reparation if an offender has (through the offence committed) caused the victim to suffer loss of or damage to property, emotional harm or loss or damage consequential on any emotional or physical harm or loss of, or damage to, property. Such consequential losses may include future loss of earnings if the victim is unable to work due to the offence.

A victim cannot bring a claim for reparation under section 32. However, the court, in exercising its discretion, will look at whether the victim has a right to bring proceedings against the offender in relation to the consequential loss suffered in determining whether reparation is appropriate and, if so, the amount of reparation to be made. This provision also explicitly states that courts must not make any reparation orders in respect of any consequential losses for which compensation has been, or is to be, paid under New Zealand's ACC scheme.

The ACC scheme does not provide full compensation cover for those who suffer a personal injury in New Zealand. Notably, if a person is unable to work because of an injury that is covered by the ACC scheme, that person can only receive up to 80% of their income as weekly compensation. It is clear that the courts are permitted to make reparation orders that cover the difference between what a person receives under the ACC scheme and their actual consequential losses.

It is unclear whether a court would hold that the provisions of the relevant Convention would apply to prohibit a reparation order being made against an air carrier where the air carrier had committed the offence during the international carriage by air of a passenger.

Law stated - 20 October 2026

EFFECT OF CARRIER'S CONDITIONS OF CARRIAGE AND TARIFFS

Liability
What is the legal effect of a carrier’s conditions of carriage or tariffs on the carrier’s liability?

A carrier’s conditions of carriage are contractually binding on a passenger to the extent that such conditions adhere to New Zealand Consumer Law (eg, the Fair Trading Act 1986 and the Consumer Guarantees Act 1993) and New Zealand law generally. This includes adherence to the international conventions that New Zealand prescribes to. In some cases (such as under the Warsaw and Montreal Conventions), a carrier's conditions of carriage will be null and void to the extent they relieve or reduce the carrier's liability to less than the prescribed limit as set by the relevant convention.

Law stated - 20 October 2026

DAMAGES

Damage recovery
What damages are recoverable for the personal injury of a passenger?

In the case of passenger injury occurring during domestic carriage, a passenger is limited to seeking damages arising out of a mental injury not covered by the no-fault accident compensation scheme (the Accident Compensation Corporation (ACC) scheme) or exemplary damages. There is no limit to the amount of damages that could be awarded for claims arising out of mental injury. Recoverable damages would likely include general damages for pain and suffering and special damages for financial losses, including loss of earnings (both past and future) and out-of-pocket expenses such as medical expenses.

The breadth of the ACC scheme means that there is very little guidance in New Zealand as to the likely amount of damages for mental injury awards, although awards for general damages tend to be modest. Awards of exemplary damages in New Zealand have also been relatively modest, with the highest amount of exemplary damages awarded by a New Zealand court being NZ$85,000.

For international carriage, claims would be governed by the provisions of the applicable Convention, as per section 256 of the Civil Aviation Act 2023.

Law stated - 20 October 2026

Damage recovery
What damages are recoverable for the death of a passenger?

The Deaths by Accidents Compensation Act 1952 provides that where a tortfeasor's negligence has caused the death of a person, the tortfeasor will be liable in respect of an action for damages as if the death of the person had not occurred, and regardless of whether the death was caused under circumstances that amount to a criminal offence. Any such action under this Act will be made in the name of the deceased's spouse or civil union partner, parents and children. Actions under the Act are confined to claims for financial losses.

The statutory bar in New Zealand's ACC scheme means that there is little scope for the families of a passenger who died during domestic carriage by air to bring an action against the air carrier pursuant to the Deaths by Accidents Compensation Act 1952 (although they will be entitled to compensation under the ACC scheme).

The families of a passenger who died during international carriage by air will, however, be entitled to bring an action under the applicable Convention against the air carrier pursuant to the Deaths by Accidents Compensation Act 1952. The families would be limited to the amount of damages provided for in the provisions of the applicable Convention, as per section 256 of the Civil Aviation Act 2023, and recoverable damages would likely include financial losses, including loss of earnings (prior to the death of the passenger), damages for financial support in respect of dependants and out-of-pocket expenses such as funeral and any medical expenses.

Law stated - 20 October 2026

ACCIDENT INVESTIGATION AND FAMILY ASSISTANCE

Investigatory authority
Who is responsible in your state for investigating aviation accidents?

Pursuant to section 4 of the Transport Accident Investigation Commission Act 1990, the Transport Accident Investigation Commission (TAIC) is charged with determining the circumstances and causes of accidents and incidents. The Civil Aviation Authority (CAA) retains an important role in accident investigation. Pursuant to a memorandum of understanding between the TAIC and CAA, the CAA conducts its own investigations into civil aviation accidents that are not investigated by the TAIC. In addition to the powers granted to the TAIC and the CAA, public inquiries may be held into aviation accidents under the Commissions of Inquiry Act 1908. To date, there have only been three public inquiries into major air accidents.

Law stated - 20 October 2026

Disclosure restrictions

Set forth any restrictions on the disclosure and use of accident reports, flight data recorder information or cockpit voice recordings in litigation.

Under New Zealand law, all evidence gathered by the TAIC has extensive legal protection from disclosure. The final report following a TAIC investigation is published and available to the public. Similarly, CAA reports are publicly available.

Pursuant to the Transport Accident Investigation Commission Act 1990, "records" (defined as a statement or submission made to the TAIC in the course of an investigation), a recording or transcript of an interview, a note or opinion of a person engaged in an investigation or information provided in confidence to the TAIC are not admissible in any prosecution or proceeding. Records may only be disclosed with the written consent of the TAIC or to the supplier of the record.

Cockpit recordings and certain investigation records supplied to the Commission may only be disclosed with the written consent of the Commission, by order of the New Zealand High Court or to the supplier of the record. Cockpit recordings and investigation records are not admissible in civil proceedings unless the High Court is satisfied that on the balance of probabilities, the interests of justice in the disclosure of the record outweigh the adverse domestic and international impact the disclosure may have on TAIC's investigation or future investigations. In ***Director of Civil Aviation v Bach*** [2018] NZDC 9072, the New Zealand District Court reiterated the rationale behind the default position of inadmissibility, being that the purpose of recording devices is to investigate accidents and improve aircraft safety.

Law stated - 20 October 2026

Relevant post-accident assistance laws

Does your state have any laws or regulations addressing the provision of assistance to passengers and their family after an aviation accident?

Under the Civil Aviation Act 2023, the Governor-General may order that carriers make advance payments in compensation to natural persons under article 28 of the Montreal Convention. To date, this discretionary power has not been utilised.

Law stated - 20 October 2026

INSURANCE REQUIREMENTS

Mandatory requirements
Are there mandatory insurance requirements for air carriers?

To operate a scheduled international air service to or from New Zealand, an air carrier is required under Part 6 of the Civil Aviation Act 2023 to hold a scheduled international air service licence or an open aviation market licence. When a foreign air carrier applies for one of these licences, it is required to supply proof of insurance covering liability that may arise from or in connection with the operation of the services in respect of death or bodily injury, or of property damage. A New Zealand air carrier does not have to supply such proof when applying for a licence; however, it must supply this proof prior to commencing the services authorised by the licence.

In addition, section 186 of the Civil Aviation Act 2023 provides that a licensee (or an applicant for a licence) may be called on to provide proof that any liability of the licensee (or applicant) for the death of or bodily injury to any person or loss of or damage to any property that may arise out of or in connection with the operation of the service is covered by insurance.

Law stated - 20 October 2026

LITIGATION PROCEDURE

Court structure
Provide a brief overview of the court structure as it relates to civil aviation liability claims and appeals.

The decision of which court to bring a civil aviation liability claim in will be dependent on the level of damages being sought by the plaintiff. The most likely court for proceedings to be brought in is the District Court, as it has jurisdiction to hear civil claims with a value of up to NZ$350,000. If a claim has a value of greater than NZ$350,000, proceedings will be brought to the High Court. In addition, a claim with a value of less than NZ$30,000 can be brought to the Disputes Tribunal.

An appeal against a decision of the District Court will generally be heard in the High Court by way of a rehearing, which enables the High Court to come to a different decision to the District Court on the evidence presented and on the law. Further appeals can then be made to New Zealand's other appellate courts (the Court of Appeal and the Supreme Court).

Law stated - 20 October 2026

Allowable discovery
What is the nature and extent of allowable discovery/disclosure?

Both the District Court and the High Court can make an order for either standard or tailored discovery. Standard discovery requires each party to disclose the documents that are in the party's control and that are documents that the party relies on, supports or adversely affects another party's case. Tailored discovery entails more or less discovery than standard

discovery would involve. Unless the court is satisfied to the contrary, there is a presumption that the interests of justice require tailored discovery in certain circumstances.

Law stated - 20 October 2026

Evidence
Does the law of your state provide for any rules regarding preservation and spoliation of evidence?

The rules governing procedure in both the District Court and High Court provide that, as soon as a proceeding is reasonably contemplated, a party or prospective party must take all reasonable steps to preserve documents that are, or are reasonably likely to be, discoverable in the proceeding. Further, documents in electronic form that are potentially discoverable must be preserved in readily retrievable form even if they would otherwise be deleted in the ordinary course of business.

Law stated - 20 October 2026

Recoverability of fees and costs
Are attorneys' fees and litigation costs recoverable?

The matters relating to the fixing and payment of costs are at the discretion of the court. The general rule is that legal costs and disbursements will "follow the event"; accordingly, courts will generally award a successful party scale costs (determined by a "fixed scale", rather than actual costs) and disbursements, to be paid by the unsuccessful party. An award of increased costs, or actual or indemnity costs, can also be made in certain circumstances. In practice, only a fraction of such fees are recoverable.

Law stated - 20 October 2026

JUDGMENTS AND SETTLEMENT

Pre- and post-judgment interest
Does your state impose pre-judgment or post-judgment interest? What is the rate and how is it calculated?

Both pre-judgment and post-judgment interest are provided for under the Interest on Money Claims Act 2016. Section 10 of this Act provides that in every money judgment, a court must award interest as compensation for a delay in the payment of money unless the Act expressly provides otherwise. Interest is generally calculated using a base rate determined by reference to the Reserve Bank of New Zealand's retail six-month term deposit rate plus a premium of 0.15%. Helpfully, the Act also requires that the Ministry of Justice establish and maintain an online interest calculator, which can be found on the Ministry of Justice website.

Law stated - 20 October 2026

Settlements
Is court approval required for settlements?

Court approval is not generally required for settlements. Settlements entered into by minors are subject to the provisions of the Contract and Commercial Law Act 2017, which provides that the settlement of a claim for money or damages entered into by a minor must be approved by the court.

Class action settlements are undergoing review, with the New Zealand Law Commission recommending new legislation that would require court approval before any class action settlement would be binding. A draft Bill has yet to be released.

Law stated - 20 October 2026

Settlements
What is the effect of a settlement on the right to seek contribution or indemnity from another person or entity? Can it still be pursued?

Following a settlement with a passenger, a carrier may be able to obtain a contribution for its liability to the passenger against another contributing party under section 17 of the Law Reform Act 1936; however, the time limits contained in the Limitation Act 2010 or the Limitation Act 1950 will apply.

Law stated - 20 October 2026

Settlements
Are there any financial sanctions, laws or regulations in your state that must be considered before an air carrier or its insurer may pay a judgment or settlement?

New Zealand currently has sanctions against certain Russian entities and in respect of certain assets and trades pursuant to the Russia Sanctions Act 2022. New Zealand will also implement sanctions imposed by the United Nations Security Council. Sanctions may impact the payment of settlements or judgments.

Law stated - 20 October 2026

UPDATE AND TRENDS

Key developments of the past year
What were the key cases, decisions, judgments and policy and legislative developments of the past year?

The District Court issued a decision confirming the liability of carriers under the Montreal Convention for perishable cargo despite contractual conditions excluding liability, where the carrier was unable to offer any evidence that it exercised reasonable care (*Fresh Produce*

Group New Zealand Limited v Air New Zealand Limited [2026] NZDC 7746). The decision is useful in confirming that the Warsaw Convention positions on inherent vice and contracting out ***do not*** apply under the Montreal Convention. While not unexpected, there is very limited case law on the Montreal Convention on this point.

Law stated - 20 October 2026