SCHEDULE 2

CIVIL AVIATION ACT 1949

PART IV

LIABILITY FOR DAMAGE, ETC., CAUSED BY AIRCRAFT

"**Liability of aircraft in respect of trespass, nuisance and surface damage**

Section 40.—(1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to wind, weather and all the circumstances of the case, is reasonable, or the ordinary incidents of such flight so long as the provisions of Part II and this Part of this Act and any Order in Council or order made in pursuance of Part II or this Part of this Act, being provisions which extend to the Colony, are duly complied with.

(2) Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which—

(a) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subsection; and

(b) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage;

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

(3) Part VI of this Act applies to this section."