

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

AIRLINES AGREEMENT BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
Transport the Hon. Ralph J. Hunt, M.P.)

OUTLINE

The purpose of this Bill is to introduce legislation to give effect to the new Airlines Agreement, the parties of which are the Commonwealth, Ansett Transport Industries Ltd and the Australian National Airlines Commission or its public company successor.

The new agreement defines (Clause 6) the principle objective of the parties as being to take all reasonable action within their powers to ensure that the Commission and the Company are the only two operators which provide scheduled domestic air passenger services over trunk routes within Australia. The Agreement does not however preclude other operators from providing services over prescribed routes (which may also be trunk routes), successive prescribed routes which together may form a trunk route or specialist scheduled passenger services over trunk routes. Regional operators' services are defined to include a comprehensive route structure embracing intrastate, intra territory routes as well as trunk routes over which TAA and Ansett have declined to operate at the request of the Minister, routes over which regional operators provided services at 1 July 1980 and between regional centres and any other place in Australia.

The enabling Act contains provision to require the Minister to lay before each House any proposed agreement to be made under para 6(1)(e) of the Agreement relating to the extension of trunk routes. The proposed exercise of the Minister's approval under the Agreement will be subject to disallowance by Parliament within 15 sitting days of tabling.

The Agreement specifies new consultation arrangements (Clause 7) which replace the present restrictive rationalisation provisions in the existing agreement and also imposes increased reporting requirements on the airlines, (Clauses 7, 13 and 23).

Freight has been removed from the ambit of the two airline policy. A number of existing provisions have been continued in the new Agreement including the curfew arrangements (Clause 16) equal opportunity for both the Commission and the Company to access passenger business on Commonwealth Government warrant (Clause 11).

In respect of rural routes provision has been made (Clause 12) for the Commission and the Company not to withdraw from existing routes without prior consultation with the Secretary to the Department of Transport. Should total costs of maintaining a rural airline service exceed total revenue for that service the Agreement provides for the Commission and the Company to cease operations at 3 months notice subject to the Secretary being satisfied that on the basis of information provided, withdrawal is justified. Arbitration arrangements are provided for in the event of the Secretary not being satisfied as to the case being made and the operator still requires cessation of service.

The Agreement will come into force (Clauses 1 and 2) when the Commonwealth has appropriately amended the Customs (Prohibited Imports) Regulations and the Airlines Equipment Act and 90 days after the Act to establish the Airfares Committee has been enacted and made available to the parties. The parties have the 90 day period to consider the terms of the Act and have the option of withdrawing from the Agreement if the terms of that Act as enacted are inappropriate to the circumstances.

The arrangements governing the period of the Agreement provide that the Company or the Commonwealth are able to give notice of termination no earlier than 5 years after the Agreement commences with the notice taking effect not less than 3 years later.

EXPLANATION OF CLAUSES

BILL

- Clause 1: provides for the citation of the new Act.
- Clause 2: provides for the Act to come into operation on the day on which it receives royal assent. Provision is made for the existing Agreements to be repealed when the Airlines Agreement 1981 comes into force.
- Clause 3: repeals previous Acts which provide the basis for present domestic air transport policy. The Acts will be repealed on a date to be fixed by proclamation relating to the commencement of the Airlines Agreement 1981.
- Clause 4: provides short names for the two airlines embraced by the Bill.
- Clause 5: provides the formal mechanism by which the 1981 Airlines Agreement is approved.
- Clause 6: provides power and authority for the Australian National Airlines Commission to enter into the Agreement.
- Clause 7: provides for the laying before each House of Parliament any agreement to be made under clause 6(1)(e) of the agreement to provide for further trunk route centres. The proposed exercise of the Minister's approval is subject to disallowance within 15 sitting days.
- Clause 8: provides for the amendment of the Customs (Prohibited Imports) Regulations to require the Secretary to the Department of Transport to have regard to the Airlines Agreement when considering aircraft import applications.

SCHEDULE (AIRLINES AGREEMENT)

Preamble provides the background against which it has been decided by the parties to enter into a new Agreement.

- Clause 1: provides that the Agreement has no force or effect and is not binding upon the parties until it is approved by the Parliament, the necessary amendments are made to the Customs (Prohibited Imports) Regulations and Airlines Equipment Act and 90 days after the Airlines have been provided with a copy of the Independent Air Fares Committee Act unless TAA or Ansett have given notice that the terms of the Act are unacceptable.
- Clause 2: provides that the Agreement is entered into by the parties subject to acceptability to the Commission and the Company of legislation to be introduced governing the operation of the Independent Air Fares Committee (The Committee Act).
- Clause 3: provides that the Commonwealth undertakes to maintain the provisions of the Independent Air Fares Committee Act during the currency of the Agreement.
- Clause 4: makes specific provision for the past Agreements to cease to have effect when this Agreement takes effect.
- Clause 5: provides for the continuation of the obligations of the Agreement upon the Commission in its proposed new form as a public company.
- Clause 6:
- Sub-clause 1 defines the basic objective of the Agreement that the parties agree there should be two and no more than two operators (being TAA and Ansett) that provide air passenger services throughout the trunk route network as defined, but that other operators may provide air passenger services over prescribed routes including successive prescribed routes and may provide specialist passenger services over trunk routes if such services are not adequately provided by TAA or Ansett.
- Sub-clause 2 defines a prescribed route. The definition embraces all intrastate or intra-territory routes, any trunk route over which neither the Commission nor the Company provides a service to the satisfaction of the Minister following a request to do so, or any trunk route over which an operator other than the Commission and the Company operated passenger services at 1 July 1980 such as Sydney/Alice Springs.
- Clause 7: replaces the rationalisation arrangements in the previous Airlines Agreement and provides that consultations between TAA and Ansett shall relate only to the provision of domestic air passenger services by TAA and Ansett and shall not extend to any other part of the business undertakings of these organisations. The Clause provides for three types of consultation
- (i) Where the airlines may consult and may agree but are not obliged to do so, covering matters affecting the efficient and economic operation of passenger air services except as specifically provided below.

- (ii) Where the airlines must consult and attempt to agree, and where if agreement is not reached then either Ansett or TAA may refer the matter to an arbitrator. This provision covers only passenger load factors and aircraft utilisation. The Minister may specify further matters.
- (iii) Provision is also made for the airlines to consult in a limited manner on fares -
 - (a) All fares consultations to be held in the presence of a member or representative of the Independent Air Fares Committee.
 - (b) Ansett and TAA shall consult each other on the setting of core fares. The Committee may direct the airlines to consult on discount fares.

The Clause also provides that by January 31 of each year, Ansett and TAA will jointly provide a report on the consultations under this provision undertaken in the previous calendar year. The Minister for Transport is required to table this report in the Parliament.

- Clause 8: provides that the Commonwealth will amend the Customs (Prohibited Imports) Regulations to impose an obligation upon the Secretary to the Department of Transport to have regard to the provisions of this Agreement in considering applications for the import of aircraft.
- Clause 9: specifies that the Commonwealth will amend the Airlines Equipment Act to require operators of civil domestic air services seeking to import trunk jet aircraft larger than 30 seats/3500 kg payload to enter into an undertaking to comply with the Equipment Act. Sub Clause 3 specifies that the Minister will allow equal capacity to the Commission and the Company over competitive routes and imposes an obligation on each airline to advise the other of their applications to import aircraft.
- Clause 10: provides for the Commonwealth to recover from Ansett and TAA the costs properly attributable to the provision of civil air transport facilities and contains a commitment to the hypothecation of fuel tax to civil air transport cost recovery. The Commonwealth undertakes not to seek to recover more than the costs attributable to the provision of trunk route air services within Australia.
- Clause 11: provides that Ansett and TAA will be given equal access to passenger business transacted on Commonwealth Government warrant and that warrant holders have a free option as to the service to be used.
- Clause 12: provides for the maintenance of rural airline services by TAA and Ansett to all places to which they operated at the date of this Agreement. The Clause provides for the airlines not to cease a service until after consultation with the Secretary on a replacement operator. The Clause also provides for withdrawal from a route after a specified time if revenue on the route does not exceed total costs. The operators may give 3 months notice of cessation of the service. A mechanism is provided for establishing the financial proof of the non viability of the service and an arbitration procedure is provided for.

- Clause 13: requires that Ansett and TAA during the period of the Agreement furnish to the Minister at the end of each financial year audited financial information in respect of trunk and ancillary routes and total airline operations. The information will be tabled in Parliament by the Minister.
- Clause 14: provides that Ansett and TAA will ensure that subsidiary companies owning or operating aircraft for domestic air services will comply with the provisions and purposes of this Agreement.
- Clause 15:
- Sub-clause 1 defines the current respective roles of Qantas, Ansett and TAA. The role of Qantas is to provide international air services and not domestic regular public air services. The role of Ansett and TAA is to provide domestic and not international regular public air services. This definition of roles does not prevent the airlines providing services on behalf of each other.
- Sub-clause 2 provides that should Government decide to change its policy in respect to the airlines' roles, such changes will only be implemented by obtaining the agreement of the parties to this Agreement. Recognition is provided of the Commonwealth's intention to consult Qantas before reaching its decision.
- Sub-clause 3 binds the Commonwealth as the sole shareholder of Qantas to direct Qantas to obtain the approval of the Minister for Transport before operating scheduled domestic air services.
- Sub-clause 4 provides that the Commonwealth will not enter an arrangement with another country allowing foreign owned airlines to operate scheduled domestic air services.
- Clause 16: requires the airlines to continue to observe curfew restrictions.
- Clause 17: provides that the Agreement does not permit the airlines to act inconsistently with the Air Navigation Act 1920 and the Air Navigation Regulations in force.
- Clause 18: provides for the Commonwealth to consult with Ansett and TAA on the Departmental programs and costs with a view to minimising the amount to be recovered by way of air navigation charges.
- Clause 19: provides that where the Commonwealth is involved in war or an immediate danger exists, Ansett and TAA will make available their aircraft, spares, equipment, buildings and so on for use by the Commonwealth. The airlines will be entitled to be paid reasonable compensation for the use of their property.
- Clause 20: provides for the Commonwealth not to exercise its powers so as to discriminate against either Ansett or TAA. It also provides for the Commonwealth to afford substantially equal treatment to the parties including the provision of loan guarantees, the granting of import permits and the allocation of airport facilities.

- Clause 21: provides for the Commonwealth to undertake to introduce legislation to Parliament to empower the Commission to adequately fulfil its obligations under the Agreement.
- Clause 22: provides for Agreement to operate initially for a 5 year period. At the expiry of that term the Commonwealth, TAA or Ansett may give notice of termination taking effect not less than 3 years after the giving of the notice. Before the Commonwealth may service notice the consent of both Houses of Parliament is required. Provision is made for TAA, when formed into a public company, to also have termination rights should its Commonwealth equity be less than 50%.
- Clause 23: requires Ansett and TAA to report annually on the provision of domestic air passenger services under this agreement for incorporation in the Department of Transport's annual report.
- Clause 24: details arrangements for the serving of notices on the parties to the Agreement.
- Clause 25: defines certain terms used in the Agreement.
- Clause 26: provides for agreement to be known as the Airlines Agreement 1981.

Schedule to the Airlines Agreement:

Schedule contains an outline of the general principles relating to powers and functions to be included in the Independent Air Fares Committee Bill.