

1984

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN NATIONAL AIRLINES AMENDMENT ACT 1984

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Aviation  
the Hon Kim C. Beazley, MP)



## OUTLINE

The purpose of this Bill is to amend the principal Act to provide the Australian National Airlines Commission with greater flexibility of management, and greater responsibility in its commercial airline operations. At the same time, the Bill provides for an appropriate level of Ministerial control and oversight.

The most significant changes relate to the Commission's capital, borrowings, profits and dividends, and staffing. Provision is made for the Commission to request capital increases when commercially justified (Clause 16). The Commission will be required to determine a commercially related profit target, review its progress in achieving that target, recommend a dividend based on commercial criteria and prepare annually corporate plans on a 3 year rolling basis, for submission to the Minister. The Minister may accept profit targets or dividends recommended by the Commission, or direct the Commission to pursue reduced or increased targets and dividend payments. This power may only be exercised in accordance with commercial criteria.

Borrowing provisions have been amended to bring the arrangements into line with those applying to other statutory authorities such as the Australian Shipping Commission and the Australian National Railways Commission, and to provide for Commonwealth guarantee of loans made to wholly owned subsidiaries of the Commission which own and operate aircraft (Clause 18).

Further responsibility is vested in the Commission by providing it with powers to determine staffing and employment conditions (except those relating to Commissioners and the General Manager) (Clause 10). The Commission shall also have the power to acquire, dispose of or lease real property up to the value of \$5 million, and to enter into other transactions up to the value of \$2 million, without Ministerial approval (Clause 14).

Amendments have also been made to implement revised arrangements concerning the Commission's employer liability in respect of superannuation for employees remaining in the Commonwealth Superannuation Scheme.

A number of amendments have been made to the arrangements governing the provision of services. The requirement that the Commission obtains the approval of the appropriate State Premier, when introducing services in a State which has referred the relevant power to the Commonwealth, has been removed and replaced with the requirement that the Commission operate those services in accordance with State law (Clause 12). Provision is also made for the Commission to be reimbursed for the losses incurred on any services provided at the Minister's direction (Clause 15).

The number of Commissioners has been expanded to a minimum of 7 and maximum of 9, with a quorum of 4 and minor revisions have been made to arrangements for the appointment of Commissioners.

The amendments to the Australian National Airlines Act will provide the Commission with greater responsibility, consistent with maintaining the Government's responsibility to Parliament, to enable it to participate more fully and more effectively in the aviation industry.

## NOTES ON CLAUSES

### Clauses 1 and 2

1. The first two clauses of the Bill provide for the short title and commencement of the legislation, and for the Australian National Airlines Act 1945 to be referred to as the Principal Act. The Act will come into effect on the day it receives Royal Assent.

### Clause 3 : Interpretation

2. New and amended definitions are inserted and a number of definitions no longer appropriate, or which have been transferred elsewhere in the Act, are repealed.

### Clause 4 : Composition of Commission

3. The number of Commissioners is increased from 7 to minimum of 7/maximum of 9.

### Clause 5 : Acting Chairman, Vice Chairman and Commissioner

4. The previous section which covered the absence of Commissioners, Section 10, is repealed. The clause provides more comprehensive legislation relating to Acting Vice Chairman and Acting Commissioner than previously applied and covers their powers, conditions of appointment and termination, and validity of action during the acting appointment.

### Clause 6 : Resignation of Commissioners

5. The clause repeals the previous provision which required a resignation to be accepted by the Governor-General or Minister before it became effective. Under the proposed clause a resignation becomes effective from the time it is delivered in writing to the Governor-General.

### Clause 7 : Vacation of Office

6. Sub-clause (a) provides for the Governor-General to terminate an appointment if Commissioners breach the clause requiring disclosure of pecuniary interests.

7. Sub-clause (b) repeals existing sub sections under which a Commissioner is required to disclose a pecuniary interest in a matter being considered by the Commission. The new sub-clause removes the previous constraint that the provision did not apply to incorporated companies with not less than 25 members. New provisions allow the Commission to determine that the Commissioner remain and take part in any deliberation or decision on the matter upon which a disclosure of pecuniary interest has been made.

Clause 8 : Meetings of Commission

8. The clause increases the quorum of a Commission meeting to 4 members, and provides for a reference in section 15 of the Principal Act to the Chairman, Vice Chairman and Commissioners to properly include those persons acting in these positions as provided for in the Act.

Clause 9 : Delegation

9. The legislative drafting of the delegation powers is revised

Clause 10 : Appointment of Officers

10. A number of existing provisions which concern the terms and conditions of appointment of officers are repealed. The new provision makes the Commission solely responsible for staffing matters other than fixing the remuneration and allowances of the general manager.

Clause 11 : Remuneration and allowances of general manager

11. The section of the Principal Act providing for the remuneration and allowances of the general manager is repealed. However, the remuneration and allowances remain subject to the Remuneration Tribunal under its Act.

Clause 12 : Powers of Commission to operate intrastate services

12. The clause repeals the requirement for the consent of the Premier of a State which has referred the power of air transport to the Commonwealth for the Commission to operate services within that State.

13. A replacement provision is included that allows the Commission to operate intrastate services where such services are provided in accordance with applicable State laws.

Clause 13 : Powers of Commission

14. Clause provides for the Commission to obtain approval of the Minister before establishing a body corporate where the Commission would have effective control of its operations, and before acquiring shares in a body corporate that would result in the Commission having effective control of its operations .

Clause 14 : Power to purchase and dispose of assets

15. The clause serves to increase the limit on the delegation of the Commission in acquiring or disposing of any property, rights or privilege before Ministerial approval is required.

16. The clause provides for a limit of \$5 million for dealings, including leases, in real property, and of \$2 million for other contracts or arrangements. Previously, a common limit of \$250,000 applied. The present 10 year delegation limit on the lease of land is repealed. A new limit of \$2 million for potential liabilities under contracts involving the giving of guarantees by the Commission in respect of borrowings or other money raised by another person is introduced.

Clause 15 : Directions to Commission in relation to services

17. Where losses are incurred by the Commission in providing services undertaken at the direction of the Minister this clause provides that the Commission be reimbursed to the extent of that loss. Reimbursement is to be made on an individual service basis. Any direction by the Minister to undertake services is required to be tabled in Parliament.

Clause 16 : Capital of Commission

18. Under this clause, the Commission may request from the Commonwealth such additional capital as the Commission on commercial principles judges necessary from time to time. Provision of capital shall be only by moneys appropriated by Parliament in response to a request by the Commission.

Clause 17 : Repayment of Capital

19. Existing arrangements for the payment of dividends are removed. New arrangements applying to payment of dividends are provided for under Section 32G (para 23).

Clause 18 : Borrowings, Superannuation and Financial Policy

20. Sections of the Principal Act dealing with borrowing powers, financial policy and superannuation are replaced with new provisions.

21. Borrowing powers are expanded to be consistent with those available to other statutory authorities such as Australian Shipping Commission and Australian National Railways Commission. Provision is made for Commonwealth guarantees to be extended to cover interest on interest and borrowings by wholly owned subsidiaries of the Commission that own or operate aircraft.

22. The Sections of the Principal Act dealing with provision for Commission's superannuation payments to the Commonwealth are amended. Provision is made for the Commission to make employer contributions to the Commonwealth for those employees remaining with the Commonwealth superannuation scheme, at the same rate as that at which the Commission makes employer contributions for those employees under its own ground staff superannuation plan. The requirement for the Commission to transfer its employer contributions for its own superannuation schemes into trust funds is retained.

23. The need for the Ministers for Aviation and Finance to determine a dividend target each year for the Commission is removed, and the Commission is required to initiate a profit target (not later than 30 days before the commencement of each financial year) and make a dividend recommendation (within 4 months of the end of the financial year), having regard to explicit commercial criteria.

24. The Minister may accept the profit target and dividend recommendation, or direct a different profit target or dividend for the Commission, having regard to commercial considerations. Notice and a statement of reasons for any profit target set or dividend direction made by the Minister is required to be tabled in Parliament.

25. Provision is made for the Commission to review progress in achieving the profit target during the year.

26. Transitional provisions in respect of financial policy continue present arrangements until the end of the current financial year.

27. The Commission is to furnish the Minister annually with a corporate plan, setting out the Commission's financial and operational targets, strategies and policies, drawn up on a three year rolling basis.

#### Clause 19 : Application of moneys

28. Under this clause, the Minister for Aviation replaces the Treasurer as the Minister responsible for the approval of the investment of surplus funds by the Commission.

#### Clause 20 : Insurance

29. The Commission is given greater responsibility under this clause for the prescribed insurance funds. The Commission's account entries in regard to transfers to insurance funds are subject to disallowance by the Minister within 30 days of notice being given by the Commission of its proposed actions.

#### Clause 21 : Profits of Commission

30. This clause removes current restrictions on the application of profits, after payment of dividends to the Commonwealth under Clause 18. After payment of dividends, the Commission may determine the application of remaining profits.

#### Clause 22 : Annual Report of Commission

31. A 21 day period is introduced for the Minister for Finance to approve or alter the form of the annual financial statements of the Commission.



Clause 23 : Compliance with Airlines Agreement

32. This provision updates the reference to the current Airlines Agreement Act.

Clause 24 : Damage to be made good in addition to penalty

33. This clause extends provision for compensation, in the event of damages to property inflicted through an act, neglect or default of a person, to wholly-owned subsidiaries of the Commission of the kind referred to in Clause 18 (para 21).

Clause 25 : Arrest of offenders

34. Section 62 which provides for any officer, employee or agent of the Commission to arrest offenders under the Act, is repealed at the request of the Commission.













