

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN NATIONAL RAILWAYS COMMISSION

(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1983

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Transport the
Hon. Peter Morris MHR)

Outline

This Bill is intended to complement the Australian National Railways Commission Bill 1983. The Bill repeals the Australian National Railways Act 1917 and previous Commonwealth railways legislation.

This Bill makes transitional and consequential changes necessary for the smooth changeover in legislation. The Bill continues all appointments of Commissioners, officers and employees made under the previous Act. The rights of employees are continued as if they had been granted under the new legislation. The Bill also preserves all approvals, determinations, authorities and the Stock Regulations made under the previous Act.

Some minor consequential amendments are made to the Long Service Leave (Commonwealth Employees) Act 1976, the Railway Agreement (Adelaide to Crystal Brook Railway) Act 1980, the Railways (Tasmania) Act 1975 and the Seat of Government Railway Act 1928.

PART 1 - PRELIMINARY

Clause 1 - Short Title

This Act may be cited as the Australian National Railways Commission (Transitional Provisions and Consequential Amendments) Act 1983.

Clause 2 - Commencement

This Act is to come into effect on the same day as the Australian National Railways Commission Act is proclaimed.

PART II - REPEAL OF AUSTRALIAN NATIONAL RAILWAYS ACT 1917

Clause 3 - Repeal

The Commonwealth Railways Act 1917 and its successive amendments over the years which comprised the Australian National Railways Act 1917 are repealed.

PART III - TRANSITIONAL PROVISIONS

Clause 4 - Interpretation

This clause sets out definitions of expressions used in other clauses of the Bill.

The repealed Act, the Australian National Railways Act is referred to as the "former Railways Act" and the new legislation is referred to as the "new Railways Act".

Clause 5 - Application

The transitional provisions have effect notwithstanding anything contained in the new Railways Act.

Clause 6 - Commissioners

This clause preserves the appointments of the Chairman and Commissioners under the former Act and continues them as if they had been made under the new Act.

Clause 7 - General Manager

The appointment of the General Manager is continued as if it has been made under the new Act and on the same terms and conditions.

Clause 8 - Officers and employees

Officers and employees of the Commission continue to be officers and employees as if they had been appointed or employed under the new Act.

Sub - Clause (2) provides that an officer or employee who resigned on the day before this Bill comes into force is not, by force of this clause, reinstated.

Clause 9 - Determinations of terms and conditions of service and employment

The purpose of this clause is to preserve any determination made by the Commission under the former Act concerning terms and conditions of employment.

Sub-clauses (2) and (3) provide that any certificates issued by the General Manager under the former Act concerning terms and conditions and salary levels are continued as prima facie evidence of the matters stated in the certificate and are deemed to have been duly given.

Clause 10 - Chairmen of Promotions Appeal Boards

Chairmen of Promotions Appeal Boards appointed under the former Act continue to hold office as if appointed under the new Act.

Clause 11 - Promotion appeals

Any appeal against a promotion made under the former Act continues to be valid and will be determined under the previous provisions.

Clause 12 - Chairmen of Disciplinary Appeal Boards

Chairmen of Disciplinary Appeal Boards appointed under the former Act continue to hold office as if appointed under the new Act.

Clause 13 - Disciplinary appeals

Any appeal to a Disciplinary Appeal Board made under the former Act continues to be valid and will be determined under the provisions which applied when the appeal was made.

Clause 14 - Charges for services

The fare and freight rates charged by the Commission under the former Act apply until new charges for services are determined under the new Act.

Clause 15 - Railways arrangements

Any arrangement made with State railways to allow intersystem running of trains made under the former Act continues in effect as if made under the new Act.

Clause 16 - Authorities to supply travellers' requisites

Any authorities granted by the Commission to persons permitting them to supply travellers' requisites continue in existence as if granted under the new Act.

Clause 17 - Investment approvals

Any approvals given by the Treasurer for the investment of moneys of the Commission not immediately required continue as if made under the provisions of the Audit Act as applied by the new Act.

Clause 18 - Determination of terms and conditions of borrowings from Commonwealth

Any determinations by the Minister for Finance in relation to borrowings of the Commission from the Commonwealth have effect as though they were made under the new Act.

Clause 19 - Determinations in relation to stamp duty or any similar tax

The determination made by the Treasurer to exempt from stamp duty dealings in securities issued by the Commission, has effect as though it were made under the new Act.

Clause 20 - Regulations in relation to liability of Commission to taxation

This clause provides that regulations currently in force continue in force as if enacted in the new legislation.

Clause 21 - Australian National Railways (ANR Stock) Regulations

These regulations are to have effect as if they were made under the new Act and any reference in the regulations to the former Act is to be read as a reference to the new Act.

Clause 22 - References in agreements etc to the Commonwealth Railways Commissioner

This clause provides that any reference to the Commonwealth Railways Commissioner in any agreement is to be read as a reference to the Australian National Railways Commission.

This is necessary since the transitional provision in the Australian National Railways Act 1975 which converted such references has been repealed by Clause 3.

PART IV - AMENDMENT OF LONG SERVICE LEAVE (COMMONWEALTH EMPLOYEES) ACT 1976

Clauses 23 and 24

These clauses are to amend the long service leave legislation to change the citation of the former Act to that of the new Act.

PART V - AMENDMENTS OF THE RAILWAY AGREEMENT (ADELAIDE TO CRYSTAL BROOK RAILWAY) ACT 1980

Clauses 25,26 and 27

These clauses are to amend the citations of legislation to refer to the new Act.

Clause 28 - Repeal of section 13

Section 13 of the Railway Agreement (Adelaide to Crystal Brook Railway) Act 1980 relating to assets vested in the Commission is repealed.

PART VI - AMENDMENTS OF RAILWAYS (TASMANIA) ACT 1975

Clauses 29 and 30

These clauses operate to ensure that the Commission is not subject to any additional liability in regard to the maintenance of roads due to the repeal of section 68 of the former Act.

PART VII - AMENDMENTS OF THE SEAT OF GOVERNMENT RAILWAY ACT 1928

Clauses 31 to 34

The Seat of Government Railway Act is amended to substitute "Commission" for "Commissioner" wherever appearing and to repeal section 4 and 5, which have had their effect.