

1982

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN SHIPPING COMMISSION AMENDMENT BILL 1982

EXPLANATORY MEMORANDUM

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



### Outline

The purpose of this Bill is to amend the Australian Shipping Commission Act 1956:

- (a) to provide the Australian Shipping Commission with more autonomy in its day to day control over the operations of the Australian National Line;
- (b) to make a number of amendments to the Act which are of a machinery nature; and
- (c) to repeal some sections of the Act which are redundant.

While the Bill will provide the Commission with more autonomy, it in no way reduces the Commission's accountability to the Parliament for its conduct of the affairs of the Commission and operation of the Australian National Line. The amendments to give effect to this increase in autonomy relate to those sections of the Principal Act concerned with contracts requiring Ministerial approval, directions to the Commission and subsequent reimbursement for any costs incurred, charges for services, terms and conditions of employment for ANL staff, financial policy and borrowing powers. In addition, a section is to be included requiring the Commission to undertake Corporate Planning.

The machinery amendments to the Principal Act are concerned with those Sections relating to Commissioners as regards their appointment, their remuneration and allowances, and the disclosure of interests. They are also concerned with meetings of the Commission, the ability of the Commission to delegate its powers and a classification of its functions. In addition, amendments are proposed to the By Law and Regulation sections of the Act.

The Sections which are to be repealed restrict employment in ANL to British subjects, allow the Commonwealth to buy and sell ships for the purpose of paying shipbuilding subsidy and restrict the transfer or mortgage of vessels to overseas interests. The restriction on employment in ANL prevents to a degree, the Commission hiring aliens who have particular expertise in shipping.

DESCRIPTION

Clause 4: Allows for appointment of Chairman on part-time or full-time basis and changes title of Vice Chairman to Deputy Chairman.

Clause 5: Part-time Chairman will be eligible for appointment if over 65 years of age.

Clause 6: Will allow Acting Chairman to act for 12 months instead of the 6 months presently allowed. Also makes provision for an Acting Deputy Chairman. Previously, there was only provision for an Acting Chairman and in certain circumstances, an Acting Commissioner.

This clause will enable the appointment of an Acting Commissioner when there is a vacancy. This will overcome problems, which can arise if unexpected vacancies and leave of absences occur, of ensuring quorums are available for meetings.

Clause 7: Sections concerned with Remuneration and Allowances of Commissioner, Termination of Appointments and the Disclosure of Interests for Commissioners are updated to the current accepted format.

Clause 8: Removes the onus of determining the calling of meetings for the efficient conduct of affairs from the Chairman to the Commission. Inserts a delegation of powers by the Commission as is found in many other Acts covering Statutory Authorities.

Clause 9: Functions of the Commission are extended to cover incidental functions as well as providing shipping services. Presently, Commission can only legally provide incidental shipping services. It removes doubt that the Commission can for example, sell unused computer capacity.

Clause 10: Increases the present limit at which Ministerial approval for contracts to acquire or dispose of property, right or privilege is required from \$500,000 to \$2,000,000.

The bill makes it necessary for ANL to seek Ministerial approval for financial leases. Unlimited usage of this method of financing could increase the contingent liability of the Commonwealth for the debts of the Commission to unacceptable levels. Accordingly this provision will assist in monitoring the Commission's total raisings of money.

Clause 11: Under existing provisions, the Commission can be directed to provide a shipping service and be reimbursed for any resultant losses. However the Commission is expected to conform with a number of other Government policies not related to shipping.

The amendments will put beyond doubt that the Government can direct the Commission to abide by certain policies. In line with the further 'commercialisation' of the Line, it will be entitled to reimbursement for any extra costs associated with complying with these directions.

Any directions given by the Minister will, as is the current practice with directions to operate a shipping service, be laid before each House of Parliament within 7 sittings days.

The general duties of the Commission have been varied from there being an onus on it to charge the lowest possible price to conduct its operations efficiently and in a manner which accords with commercial practice.

Under the present provisions of Section 19 of the ASC Act, ANL requires Ministerial approval to setting or varying specific fare and freight rates for coastal general cargo and to bases for charging for coastal bulk, overseas bulk and overseas liner cargo.

The new provisions of Section 19A will enable the Minister to approve bases for charging for all ANL services and allow the Commission freedom to establish the actual charges in accordance with commercial practices.

Section 19B will require the Commission to prepare a Corporate Plan and to review it at least annually. There is no similar requirement at the moment.

Clause 12: Removes requirement that ANL employees be British subjects. ANL will thus conform to the employee requirements of many other Statutory Authorities and private shipping companies.

Clauses 13 and 14: Provide that the Commission may, without approval of the Minister, determine the salary of all positions below the level of General Manager. This provision will provide ANL with the flexibility to develop salary packages commensurate with private industry.

Clause 15: This clause gives effect to the current arrangements for the determination of the General Manager's salary and allowances by the Tribunal.

Clause 17: Under Section 17A of the ASC Act, the Minister determines a target rate of return for coastal operations which is based on profits being earned by private shipping companies. Overseas operations are operated to permit the payment of a reasonable return on capital.

The new provisions alter the position insofar as there will now be a target rate of return for the combined operations of the Commission. Although the rate still has to be approved by the Minister, the Commission will be integrally involved in the setting of this rate.

The provisions relating to the payment of dividends by the Commission have similarly been altered. The Commission proposes a rate to the Minister as the initial stage.

Clause 19: The borrowing provisions have been altered to the updated version for these provisions. The existing borrowing powers could preclude the Commission from utilising some types of trade credit.

Clause 20: This clause extends the deregulation of the Commission. The Commission will decide what to do with the balance of profits after payment of dividend. Currently this is the Minister's decision.

Clause 25: Section 44 is repealed because the Shipping Registration Act has come into force.

Clause 26: Sections 47 and 48 are repealed because they were enacted originally to ensure the adequacy of tonnage in coastal trades and to protect the shipbuilding industry. They are now considered obsolete.

The By-laws and Regulation provisions have been redrafted to accord with the present day format.

