

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN TOURIST COMMISSION BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for the Arts, Sport, the Environment, Tourism and Territories, the Hon John Brown MP)

## AUSTRALIAN TOURIST COMMISSION BILL 1987

### Outline

The purpose of this Bill is to:

- . replace the Australian Tourist Commission Act 1967 and provide a new legislative base for reform of the Australian Tourist Commission (ATC) as expressed in the recommendations of the Australian Government Inquiry into Tourism which were endorsed by the Government in December 1986 and to take into account recent Government reforms of Statutory Authorities.
- . enable the ATC to achieve Australia's full potential from tourism to Australia with a greater emphasis by the Commission on planning and evaluation through a statutory requirement to prepare Corporate and Operational Plans.
- . reduce the size of the Board of Directors from thirteen to nine members and replace the provision for automatic representation by each of the States and Territories on a rotational basis by providing for appointment of members on the basis of commercial acumen and industry experience.

### Financial Impact Statement

No additional financial implications directly flow from this legislation

## NOTES ON CLAUSES

### Clauses 1 and 2

The first two clauses of the Bill provide for the short title and commencement of the legislation on a day to be fixed by proclamation.

### Clause 3 - Interpretation

Defines certain terms used in subsequent clauses of the Bill

### Clause 4 - Application of Act

Enables the Commission to operate within Australia and overseas.

### Clause 5 - The Australian Tourist Commission

Provides for the continuation in existence and preservation of the ATC as established by the ATC Act 1967.

### Clause 6 - Principal Objects of Commission

Provides that the principal objects of the Commission are to increase the number of visitors to Australia from overseas, to maximise the benefits to Australia from overseas visitors and to ensure that Australia is protected from the adverse environmental and social impacts of international tourism.

### Clause 7 - Functions of Commission

Provides that the functions of the Commission are: to promote Australia overseas as a tourist destination; to enhance awareness of Australia overseas as a tourist destination; to co-ordinate the overseas promotional efforts of the Australian tourism industry, in co-operation with State and Territory tourism authorities and with the Australian tourism industry; to enhance awareness in Australia of the Australian tourism industry; and to closely monitor and report the effects of international tourism on Australia's natural environment and society.

### Clause 8 - Powers of Commission

Outlines the powers of the Commission to enable it to perform its functions. The powers include: conducting promotional activities; providing information and advice to assist sensitive, environmentally and socially sound development of the Australian tourism industry; undertaking research and disseminating the results; producing promotional material and arranging for the manufacture and distribution of items identified with the Commission.

The Commission may also: enter into contracts; establish offices; use Commonwealth owned or leased land or buildings; accept gifts, bequests and devices made to it and act as a trustee; enter into co-operative arrangements and partnerships; appoint agents and attorneys and act as an agent; and obtain commercial sponsorships.

The Commission may also charge fees for the provision of services, goods and information.

The Commission is excluded specifically from carrying on business as a travel agent to ensure that it does not compete with the private sector in selling travel.

Clause 9 - Commission is body corporate etc

Outlines the legal status of the Commission.

Clause 10 - Establishment of Board of Directors of Commission

Establishes the Board of Directors of the Commission.

Clause 11 - Role of Board

Gives the Board responsibility for the proper and efficient performance of the functions of the Commission and to make policy.

Clause 12 - Constitution of Board

Provides that the Board shall consist of nine members including a government member and the Managing Director.

Clause 13 - Appointment of Members

Provides for appointment of all members of the Board (with the exception of the Managing Director) by the Minister, specifies the expertise required of the members and provides that a person over 65 years of age shall not be appointed a member.

Clause 14 - Term of appointment

Outlines the terms of appointment, length of the terms and age limits of members.

Clause 15 - Basis of holding office

Provides for the appointed members to hold office on a part time basis, with the option of appointing the Chairman on a full time basis.

Clause 16 - Full time Chairperson not to engage in other paid employment

A full time Chairperson may only engage in other paid employment with the written approval of the Minister.

Clause 17 - Remuneration and Allowances

Provides for remuneration of and payment of allowances to Board members in accordance with the provisions of the Remuneration Tribunals Act 1973.

Clause 18 - Leave of absence

Provides for the Minister to grant leave of absence to the Chairperson and for the Chairperson to grant leave of absence to other members.

Clause 19 - Resignation

Provides for Board members to resign by notifying the Minister in writing.

Clause 20 - Disclosure of interests

Provides for members to disclose any financial interest in matters before the Board and disqualifies them from being involved in deliberations or decisions relating to these matters. Also provides for a full time Chairperson to advise the Minister in writing of all pecuniary or business interests.

Clause 21 - Termination of appointment

Provides that the Minister may terminate the appointment of a member under specified circumstances.

Clause 22 - Terms and conditions of appointment not provided for by Act

Enables the Minister to determine in writing any other terms and conditions of appointment of members not specified elsewhere in the Act.

Clause 23 - Meetings

Outlines requirements for Board meetings, establishes the quorum, describes the voting arrangements and provides for the Board to keep minutes of its proceedings.

Clause 24 - Acting appointments

Provides that the Deputy Chairperson shall act for the Chairperson, for appointment of an acting Deputy Chairperson and for appointment of acting members when the appointed persons are unavailable for any reason.

#### Clause 25 - Corporate Plan

Requires the Board to prepare and implement corporate plans for the Commission's operations. The corporate plan is subject to the Minister's approval. It must be reviewed annually and may be revised at any time either at the Board's own volition or at the Minister's request. Provision is made for consultation with State and Territory tourism authorities and such other bodies concerned with tourism as the Board considers appropriate before preparing or revising the corporate plan.

The corporate plan is to cover a rolling five year period and shall include a statement of objectives, an assessment of the outlook for overseas tourism to Australia and an outline of the strategies and policies that the Board intends to adopt, including strategies and policies to determine and manage the environmental and social impacts upon Australia of international tourism.

Transitional arrangements are provided for the period to which the first corporate plan shall apply.

#### Clause 26 - Annual operational plans

Requires the Board to prepare annual operational plans to give effect to the corporate plan each financial year, detailing estimated receipts and expenditure and specifying proposed programs and proposed resources allocated to each program.

The annual operational plan is subject to the Minister's approval and may be revised at any time either at the Board's own volition or at the Minister's request.

#### Clause 27 - Board to comply with corporate and annual operational plans

Requires the Board to ensure that the Commission's operations give effect to the Corporate plan and the applicable operational plan.

#### Clause 28 - Annual Report

Under Division 2 of Part XI of the Audit Act 1901 the Board is required to submit an annual report to the Minister each year.

This clause specifies additional matters to be included in that report including: an assessment of achievement of objectives as stated in the corporate plan and of implementation of the annual operational plan; details of any significant capital works program undertaken; details of significant acquisitions and disposals of real property; and variations to the corporate plan and to the operational plan agreed to by the Minister.

The annual report shall also include details of directions to the Board by the Minister.

Clause 29 - Minister may give directions in exceptional circumstances

Provides for the Minister to give written directions to the Board in exceptional circumstances involving possible conflicts between Commission activities and Government policies and outlines the procedures to be followed. It requires that the Minister shall advise both Houses of Parliament of any directions and publish them in the Gazette.

It also provides consultation procedures between the Board and the Minister before directions are given.

Clause 30 - Managing Director

Provides that there shall be a Managing Director of the Commission.

Clause 31 - Duties

Specifies that the Managing Director shall conduct the affairs of the Commission subject to Board directions and in accordance with policies determined by the Board.

Clause 32 - Appointment

Gives the Board the power to appoint the Commission's Managing Director, provides that an appointed member may not be appointed Managing Director and specifies the age limit for the Managing Director.

Clause 33 - Term of appointment etc

The Managing Director holds office during the Board's pleasure and in any event shall cease to hold office on attaining 65 years of age.

Clause 34 - Remuneration and allowances

Provides for remuneration of and payment of allowances to the Managing Director in accordance with the provisions of the Remuneration Tribunals Act 1973.

Clause 35 - Managing Director not to engage in other paid employment

Provides that the Managing Director shall not engage in other paid employment except with the approval of the Board.

Clause 36 - Leave of Absence

Gives the Chairperson authority to grant leave of absence to the Managing Director on terms and conditions determined by the Board with the written approval of the Minister.

Clause 37 - Resignation

Enables the Managing Director to resign by notifying the Chairperson in writing.

Clause 38 - Disclosure of interests

Requires the Managing Director to declare any pecuniary or business interests to the Chairperson.

Clause 39 - Terms and conditions of appointment not provided for by Act

Terms and conditions not provided for by the Act are able to be determined by the Board with the written approval of the Minister. This enables leave provisions and other matters to be determined.

Clause 40 - Acting Managing Director

Provides for consequential acting arrangements if the Managing Director's office becomes vacant or if the Managing Director is absent.

Clause 41 - Exclusion of Managing Director etc from certain deliberations

Provides that the Managing Director shall not be present during deliberations of the Board, nor take part in any decision of the Board, concerning the appointment or terms and conditions of appointment of the Managing Director.

Also provides that an acting Managing Director shall not be present at such times or when appointment of an acting Managing Director is being discussed or decided.

Clause 42 - Employees

Provides for persons to be employed by the Board under terms and conditions determined by the Board.

Clause 43 - Consultants

Enables the Board to engage suitably qualified persons as consultants to the Commission under terms and conditions determined by the Board.

Clause 44 - Money payable to Commission

Provides for money to be appropriated by Parliament and, in accordance with directions by the Minister for Finance, the timing and amount of payments to the Commission.



Clause 45 - Application of money

Details the purposes for which the Commission can spend its appropriation.

Clause 46 - Contracts and leases

Requires the Board to obtain Ministerial approval before the Commission enters into any contract which exceeds \$500,000 or, if a higher amount is prescribed, that higher amount, or lease land for ten years or more.

Clause 47 - Application of Division 2 of Part XI of Audit Act

Provides that the Commission shall be subject to the relevant provisions of the Audit Act.

Clause 48 - Liability to taxation

Provides for taxation as applicable to such Commonwealth statutory authorities.

Clause 49 - Delegation by Board

Gives the Board the power to delegate all or any of its powers, to a member of the Board or a member of staff of the Commission. The delegate will continue to be subject to the direction of the Board.

Clause 50 - Delegation by Managing Director

Gives the Managing Director the power to delegate to a member of staff of the Commission all or any of the powers of the Managing Director. The delegate will be subject to the directions of the Managing Director.

Clause 51 - Regulations

Gives the Governor-General the power to make regulations under the Act.





