

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Independent Air Fares Committee 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 establish a Committee to conduct reviews to vary and determine domestic air fares of all regular public transport (RPT) domestic air passenger operators.

Cost allocation reviews will be initiated by the Minister and conducted in public every 2 to 3 years in respect to trunk route operators to determine how airline operators' costs shall be attributed to the flagfall and distance components of an air fare formula and will also determine the first class fare differential. Such reviews are to be held concurrently for Ansett and TAA. The first cost allocation review for TAA and Ansett is to be conducted within 3 years of the enactment of this Bill. Such reviews for non trunk route operator will be held less frequently.

Major air fares reviews, to vary and determine economy air fares, shall be conducted at the request of operators, or, where at least 6 months have elapsed since the last such review for an operator, may be initiated by the Committee. A request for a review by either TAA or Ansett in relation to trunk and associated F27 services will initiate reviews for both operators, and the same fares shall be determined for TAA and Ansett services over trunk routes. All such reviews shall be completed within a specified period.

Minor air fares reviews are to be conducted at the request of operators and shall only consider economy fare increases not exceeding 5% of the previously determined economy fare. A request for a review by either Ansett or TAA in relation to trunk and associated F27 services will initiate reviews for both operators and the same fares over trunk routes for both operators shall be determined. All such reviews shall be completed within a specified period.

Passenger operators may also seek approval for discount fares. Provided the Committee is satisfied that the discount fare is likely to improve the operator's profitability, is unlikely to increase trunk route economy fares and any conditions are reasonable and will not be applied in a discriminatory manner, the Committee shall approve the discount fare. Provision is also made that discount fares may be reviewed against those criteria and the Committee may withdraw the approval.

The Committee will consist of a Chairman and two members, all part-time, appointed by the Governor-General. The Committee's staff shall be appointed under the Public Service Act.

The Committee, if it thinks fit, or is requested by a party to a cost allocation review, may direct that part of the proceedings be held in private. The Committee may also give directions prohibiting or restricting publication of evidence or documents given to the Committee at any proceedings. The Committee will have the power to obtain all information necessary to undertake its tasks and will report annually, through the Minister, to the Parliament.

The Bill provides for the enforcement provisions currently contained in ANR 106 to continue to apply, viz; the denial of use of any aerodrome or any air route facility maintained and operated by the Minister in pursuance of ANR 82 to any operator whilst advertising, charging or collecting air fares not determined and approved by the Committee. ANR 106 will be repealed on the commencement of this Act.

NOTES ON CLAUSES

- Clause 1: provides for the citation of the Act.
- Clause 2: provides for the Act to come into operation on a day to be fixed by Proclamation.
- Clause 3: provides interpretations for terms used in the Act.
- Clause 4: provides for the establishment of the Independent Air Fares Committee consisting of three part-time members, comprising a Chairman and two other members, all to be appointed by the Governor-General.
- Clause 5: provides that members may hold office for periods specified on appointment, not exceeding five years and are eligible for re-appointment. Terms and conditions of appointment (except for a Judge), are as determined by the Governor-General.
- Clause 6: provides for the remuneration and allowances of members to be determined by the Remuneration Tribunal or as prescribed.
- Clause 7: provides for the resignation of members.
- Clause 8: provides for the termination of appointments of members by the Governor-General and the reasons for which this may occur.
- Clause 9: provides for the disclosure of any interest, pecuniary or otherwise, of any member of the Committee that could conflict with the proper performance of his functions and outlines actions the Chairman may take when he becomes aware of such an interest.
- Clause 10: provides for the Minister to appoint members to act as Chairman and persons to act as a member of the Committee during absences from duty. Sub-clause (7) provides grounds for which the validity shall not be called in question of anything done by the person acting as Chairman or as a member.
- Clause 11: provides for the Chairman to convene Committee meetings.
- Clause 12: provides for the functions of the Committee.

Sub-clause (1) specifies the types of reviews to be undertaken:

- cost allocation reviews to determine the attribution of costs to the fare formula components and the first class fare differential
- major air fares reviews and minor air fares reviews to determine economy air fares and formula for calculation of fares
- approve proposed discount air fares
- perform duties required under Airlines Agreement legislation.

Sub-clause (2) outlines the limitations of the Committee's functions regarding fares for intra-state routes.

Clause 13: provides that the Committee shall undertake cost allocation reviews in relation to a passenger operator or operators only at the request of the Minister. Sub-clauses (2), (3) and (4) provide for the Minister to request a cost allocation review in relation to trunk route operators before the expiration of 3 years after the commencement of this Act with further reviews to occur between 2 and 3 years after the preceeding one. The Minister shall specify the routes for which the review in relation to Ansett and TAA is to be conducted. Reviews for Ansett and TAA service shall take place concurrently in regard to all routes or related routes. For other operators, the Minister shall request a review as soon as practicable after the commencement of this Act with subsequent reviews to occur so that at least 3 years have passed since the preceeding review.

Sub-clause (5) allows the Minister to specify a time for completing a review and making a determination.

Sub-clause (7) provides for the Committee to give notice of a review to relevant operator(s) inviting submissions. A notice in the Gazette will invite submissions from the public. Sub-clause (8) provides for the operator to inform the Committee of concessions for blind persons, students and children and the Committee shall set these out in the Gazette.

Sub-clause (9) provides for the Minister to make submissions during a review requesting that the committee take into account in conducting the review, the need to ensure that air services are operated on an efficient and economic basis, are provided over trunk routes by 2 economically viable passenger operators and domestic services are as far as possible, operated on a competitive basis.

Clause 14: provides for matters for the Committee to have regard to in conducting a cost allocation review:

- (a) the need to ensure that air fares charged over routes with similar characteristics where similar equipment is used, are able to be determined on a consistent basis
- (b) the need to ensure that fares are as closely as practicable related to costs of providing the service
- (c) the need to ensure that air services are operated on an efficient and economic basis
- (d) the effect of the level of fares on demand
- (e) the need to ensure that air fares charged by trunk operators over trunk routes are able to be determined on a consistent basis.

Clause 15: provides that an operator may request the Committee to undertake a major air fare review and determine the economy air fare to be offered on specified routes.

Sub-clauses (2), (5) and (6) provide for the Committee to initiate a review in respect to an operator and notify that operator that a review is to occur provided at least 6 months has elapsed since completion of the previous review of those routes.

Sub-clauses (3) and (4) provides that where Ansett, TAA or the Committee initiate a review in respect of all routes or related routes the Committee shall determine the economy fare charged by both operators over those routes.

Sub-clause (7) provides for the Committee to specify the information it requires and for the provision by the operator of that information for the Committee to undertake a review.

Sub-clause (10) provides for the Committee to complete its review within specified periods.

Sub-clause (11) outlines matters which the Committee shall have regard to when determining the amount of economy air fares to be charged.

Sub-clause (12) provides that determinations in relation to services by Ansett and TAA over trunk routes are to be the same for both Ansett and TAA.

Clause 16: provides for passenger operators to request the Committee to conduct a minor air fare review, where the increase in economy air fares on a route is not to exceed by more than 5% the previously determined level of economy air fares for that route at the most recent major review. In the case of TAA and Ansett where the request relates to all routes or related routes the Committee shall determine the economy fare charged by both operators over those routes.

Sub-clause (6) provides for the provision by the operator of specified information necessary for the Committee to undertake a review.

Sub-clause (7) provides for the Committee to complete its review within a specified period. Sub-clause (8) specifies those cost increases and matters which the Committee shall have regard to in conducting a minor air fare inquiry. Sub-clause (9) provides that determinations in relation to air services provided by Ansett and TAA over trunk routes shall be the same.

Clause 17: provides for the Committee to approve discount fares submitted to the Committee by operators, setting out the level of discount and the conditions attached. Sub-clause (3) provides for the Committee to give a decision on such a request within 7 days of application.

Sub-Clause (4) provides that if the Committee is satisfied that the discount fare is likely to improve the profitability of the operator, is unlikely to increase economy fares on trunk routes, and conditions associated with the fare are reasonable, the fare shall be approved.

Sub-clause (5) provides that in relation to an approved discount fare any operator can request a review of the availability of that discount fare (or where the Committee is satisfied a review is desirable). The review is to be completed within 14 days and unless the Committee is satisfied about the profitability, the effect on economy fares on trunk routes and the conditions, approval of that fare may be revoked.

Sub-clause (7) provides that in conducting the review the Committee shall have regard to the fact that an approved discount fare on a route may be charged by any operator on that route.

- Clause 18: provides for the Chairman's direction as to the arrangements of the Committee for the purposes of reviews. If the Committee is not fully constituted for cost allocation or major air fare reviews in relation to trunk route operator the Chairman shall direct its reconstitution by all members for the purposes of making a determination.
- Clause 19: provides for the passenger operators which are the subject to reviews to be parties to those reviews. At a cost allocation review only, any person or body may apply to be parties to the inquiry which, may be accepted by the Committee. Sub-clauses (9) and (10) provide for parties to an inquiry to be entitled to give evidence, call witnesses and make submissions to the Committee.
- Clause 20: provides for the Committee to issue interim determinations on the application of the passenger operator after the commencement but before completion of a major air fares review. This determination may be revoked before the completion of the review.
- Clause 21: provides for procedures at reviews, and for all proceedings of the Committee except cost allocation reviews to be held in private. The Committee may direct, where it thinks appropriate, or is requested to by a party to the proceedings, hearings to be private and restrict publication or disclosure of evidence. Penalties are provided for not complying with the Committee's directions.
- Clause 22: provides for parties to proceedings to be represented by other persons at the Committee's discretion.
- Clause 23: provides for the Committee to summons persons to appear, give evidence and produce documents. Sub-clause (2) gives the Committee discretion to exercise these powers on the application of a party to the inquiry.
- Clause 24: provides for the notice of any determinations to be given to the passenger operator within 7 days of making the determination. A notice is to be published in the Gazette providing details of the determination by referring to evidence and giving reasons for the determination or decision. Determinations shall remain in force until subsequent determinations are notified.

- Clause 25: provides that, for intra-state and intra-Northern Territory fares, the Committee may, at the operators request, make amendments to determinations to equal any fares determined by the Government of that State or the Northern Territory.
- Clause 26: provides enforcement provisions by which the Minister may direct the withdrawal of the use of any aerodrome or any air route facility maintained and operated by the Minister in pursuance of regulation 82 of the Air Navigation Regulations to any operator whilst advertising, charging or collecting air fares not determined and approved by the Committee. Penalties are provided for contravention of the Ministers directions under this Clause.
- Clause 27: provides for staff assisting the Committee to be employed under the Public Service Act 1922.
- Clause 28: provides a penalty for refusing to be sworn in, refusing to answer questions, and not producing a summonsed document.
- Clause 29: provides a penalty for a witness failing to attend proceedings.
- Clause 30: provides for the payment of travelling and other expenses of witnesses.
- Clause 31: provides protection and immunity to members of the Committee and persons appearing for a party and protection to witnesses as afforded by the High Court.
- Clause 32: provides for the Committee to furnish to the Minister an annual report as soon as practicable after each 30 June.
- Clause 33: provides for the annual report to be tabled within 15 days of its receipt by the Minister.
- Clause 34: provides for the Governor-General to make regulations for carrying out or giving effect to this Act.
- Clause 35: provides for regulation 106 of the Air Navigation Regulations to be repealed.

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