

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

INTER-STATE COMMISSION AMENDMENT BILL 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport,
the Hon. Peter Morris, M.H.R.)

OUTLINE

The purpose of this Bill is to amend a number of provisions in the Inter-State Commission Act 1975 (ISC Act) which are necessary to take account of legislative and other developments since 1975.

In particular the amendments

- (a) exclude from the ambit of the Commission any investigation of matters relating to the operation of the current 1981 Airlines Agreement and Independent Airfares Committee legislation
- (b) adjust to present day equivalents the salaries of the President and Members of the Commission and certain penalties associated with witnesses refusing to attend hearings, to answer questions or being in contempt of the Commission
- (c) replace those provisions relating to retirement benefits and the Public Service Act with up-to-date provisions reflecting legislative changes since 1975
- (d) make a few minor changes to enable the ISC Act to conform with current administrative procedures and legislative drafting practices.

The powers and scope of operations of the ISC remain essentially the same as those provided for in the ISC Act.

DESCRIPTION

- Clause 1: Title clause
- Clause 2: Inter-State Commission Amendment Act becomes operative when it receives Royal Assent.
- Clause 3: Definition of "person" is repealed as the definition of "person" in the Acts Interpretation Act adequately covers the needs of the ISC Act.
- Clause 4: Use of the word "Commonwealth" instead of "Australia" accords with current legislative drafting practice.
- Clause 5: The ISC Act excluded from the ambit of the Commission any investigation of matters relating to the operation of the Airlines Agreements Act 1952-1973.
- The latter Act has since been repealed and replaced by the Airlines Agreement Act 1981 and the associated Independent Air Fares Committee Act 1981.
- This clause continues the original intent to exclude from the ambit of the Commission investigation of any matter relating to the current airlines agreement and also to exclude matters concerning air fare determinations which are now the responsibility of the Independent Air Fares Committee.
- Clause 6: Enables the Commission to give directions as to the persons who may be present during a hearing of confidential evidence, and to give directions prohibiting or restricting the publication of evidence given or of matters contained in documents lodged with the Commission.
- Clause 7: Updates from 3 months to 6 months the maximum penalty for failure of a witness to attend a hearing as required by the Commission. This is in line with penalties contained in similar current legislation.

Clause 8: Similarly updates from 3 months to 6 months the maximum penalty for a witness refusing to be sworn in, answer questions or produce a document.

Witnesses are protected from providing self-incriminating evidence except where it is an offence against section 16 of the ISC Act or against the stated sections of the Crimes Act 1914.

Clause 9: Makes a number of amendments to section 17 of the ISC Act concerning contempt of the Commission.

Deletes the words "or near" from subsection 17(c) of the ISC Act which deals with "the creation of a disturbance ... in or near a place where the Commission is holding an investigation."

Confines subsection 17(d) of the ISC Act to acts and things which would constitute contempt in the face of that court.

Adds a requirement in a new subsection 17(e) to the ISC Act that a person shall not contravene a direction given by the Commission in relation to the provision by witnesses of confidential evidence.

Updates maximum penalties in regard to contempt of the Commission from 3 months to 6 months.

All the provisions of this clause are in line with those in similar current legislation.

Clause 10: Reference to "the Commonwealth" rather than "Australia" accords with current legislative drafting practice.

Clause 11: Adjusts the initial salaries and allowances of members of the Commission to their present day equivalents and makes it explicit that these are payable out of the Consolidated Revenue Fund. The Remuneration Tribunal's annual reviews will provide the mechanism for the Parliament to consider future adjustments, in a way similar to arrangements for Judges.

- Clause 12: Removes the requirement that the resignation of a member of the Commission is not effective until accepted by the Governor-General.
- Clause 13: Removes the requirement for the Governor-General to appoint an acting President, and provides for the Minister to do so.
- Clause 14: Repeals section 22 of the ISC Act which preserved the rights of a public servant appointed as a member of the Commission. The Officers' Rights Declaration Act has been repealed and these rights are now adequately covered by section 87 of the Public Service Act.
- Repeals sections 23 and 24 of the ISC Act and replaces them with a new section 24 which redefines the provision of retirement benefits in line with legislative developments since 1975. The benefits provided are in line with those in similar current legislation.
- Clause 15: Allows a member of the Commission to engage in paid employment outside the duties of his office, but only with the consent of the Minister.
- Clause 16: A technical change in accord with current legislative drafting practice.
- Clause 17: Updates provisions in relation to the disclosure of members' interests in accord with current practices.
- Clause 18: Section 32 of the ISC Act requires the Commission to furnish the Minister with an annual report on its operations within 60 days of the end of a fiscal year.
- This clause requires the Minister to lay before each House of Parliament the Commission's annual reports within 15 sitting days of receipt of such reports by the Minister.