

AIRLINES EQUIPMENT.

No. 70 of 1958.


An Act to make provision with respect to Financial and Rationalization Arrangements in connexion with the Equipment of certain Domestic Airlines.

[Assented to 10th October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

PART I.—PRELIMINARY.

Short title.

 1. This Act may be cited as the *Airlines Equipment Act* 1958.

Commencement.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Parts.

3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–4).

Part II.—Financial Arrangements in relation to the Australian National Airlines Commission (Sections 5–7).

Part III.—Financial Arrangements in relation to Australian National Airways Proprietary Limited and certain other Companies (Sections 8–10).

Part IV.—Rationalization of Aircraft Fleets (Sections 11–15).

4. In this Act, unless the contrary intention appears—

Definitions.

“ the Commission ” means the Australian National Airlines Commission;

“ the Company ” means Ansett Transport Industries Limited, and includes every company or firm in which Ansett Transport Industries Limited has from time to time a controlling interest and which owns or operates aircraft.

PART II.—FINANCIAL ARRANGEMENTS IN RELATION TO THE
AUSTRALIAN NATIONAL AIRLINES COMMISSION.

5.—(1.) Section thirty-one of the *Australian National Airlines Act* 1945–1956 is repealed and the following section inserted in its stead:—

“ 31.—(1.) The Commission may, with the approval of the Treasurer, borrow moneys from time to time in such amounts as the Minister certifies are, in his opinion, necessary for meeting its obligations or discharging its functions under this Act.

Borrowing by
the
Commission.

“ (2.) The Treasurer may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend to the Commission, on such terms as he thinks fit, moneys which the Commission is authorized to borrow under the last preceding sub-section and the borrowing of which by the Commission from the Commonwealth is approved by the Minister.

“ (3.) The Commission may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

“ (4.) The Treasurer may, with the concurrence of the Minister, on behalf of the Commonwealth, guarantee the repayment by the Commission of amounts borrowed under this section otherwise than from the Commonwealth and the payment of interest on amounts so borrowed.

“ (5.) The amounts borrowed by the Commission and not repaid shall not at any time exceed Three million pounds.

“ (6.) The moneys that may be borrowed by the Commission under this section are in addition to the amounts that constitute the capital of the Commission under the last preceding section.

“ (7.) The Commission shall not borrow moneys except in accordance with this section.”.

(2.) The *Australian National Airlines Act* 1945–1956, as amended by this Act, may be cited as the *Australian National Airlines Act* 1945–1958.

Borrowing
by the
Commission
for the
purchase of a
Lockheed
Electra aircraft.

6. Notwithstanding anything contained in section thirty-one of the *Australian National Airlines Act 1945-1956*, as amended by this Act, the Commission may borrow, in addition to the amounts that it is authorized to borrow under that section, the moneys (not exceeding the equivalent of Three million dollars in the currency of the United States of America) that the Treasurer is, under the *Loan (Australian National Airlines Commission) Act 1958*, authorized to lend to the Commission in connexion with the purchase by the Commission of a Lockheed Electra aircraft and related spare parts and equipment.

Purchase
by the
Commission
of a further
Lockheed
Electra aircraft
from Qantas
Empire Airways
Limited.

7.—(1.) The purchase by the Commission from Qantas Empire Airways Limited of one of the five Lockheed Electra aircraft referred to in the loan agreement a copy of which is set out in the Schedule to the *Loan (Qantas Empire Airways Limited) Act 1958* is approved, and the Commission may, without prejudice to its powers of borrowing moneys, accept credit from Qantas Empire Airways Limited up to an amount not exceeding the equivalent of Two million two hundred and fifty thousand dollars in the currency of the United States of America in connexion with the purchase.

(2.) Nothing in the *Loan (Qantas Empire Airways Limited) Act 1958* shall be deemed to prevent Qantas Empire Airways Limited from selling to the Commission the aircraft in relation to which the last preceding sub-section applies.

PART III.—FINANCIAL ARRANGEMENTS IN RELATION TO AUSTRALIAN NATIONAL AIRWAYS PROPRIETARY LIMITED AND CERTAIN OTHER COMPANIES.

Guarantee of
certain loans.

8.—(1.) In order to further the objects and purposes referred to in the recitals to the agreement approved by the *Civil Aviation Agreement Act 1952*, the Treasurer may, on behalf of the Commonwealth, at the request of Ansett Transport Industries Limited and subject to the conditions required by this Part—

(a) for the purpose of enabling the purchase by Ansett Transport Industries Limited or Australian National Airways Proprietary Limited of two Lockheed Electra aircraft and related spare parts and equipment, guarantee the repayment of, and the payment of interest on, a loan or loans of an amount or amounts not exceeding in the whole the equivalent of Three million pounds made to either of those companies, each such loan being repayable within a period not exceeding seven years from the date on which the loan moneys are received; and

(b) for the purpose of enabling the purchase by Ansett Transport Industries Limited or Australian National Airways Proprietary Limited of six Fokker Friendship aircraft and related spare parts and equipment,

guarantee the repayment of, and the payment of interest on, a loan or loans of an amount or amounts not exceeding in the whole the equivalent of Two million pounds made to either of those companies, each such loan being repayable within a period not exceeding six years from the date on which the loan moneys are received.

(2.) The guarantee of a loan or loans under this section does not affect the rights of Australian National Airways Proprietary Limited under clause three of the agreement approved by the *Civil Aviation Agreement Act 1952*.

9. For the purposes of the protection of the financial interests of the Commonwealth, the Treasurer shall not give a guarantee under the last preceding section in respect of a loan unless—

Financial
conditions of
guarantees.

- (a) the moneys are borrowed upon reasonable terms and conditions;
- (b) proper security is taken by the lender over the aircraft and related spare parts and equipment to which the loan relates;
- (c) the loan arrangements contain such provision as the Treasurer considers necessary for the transfer to the Commonwealth of the benefit of securities in the event of the Commonwealth being called upon to make payment under the guarantee;
- (d) undertakings to the satisfaction of the Treasurer are given that the aircraft and other assets over which security for the payment of moneys to which the guarantee relates—
 - (i) will be insured, and kept insured, against all risks against which it is customary to insure, and to their full insurable value;
 - (ii) will not be sold, mortgaged or charged except by way of security to the lender in respect of the loan; and
 - (iii) will not be taken out of Australia for a destination that is not in Australia or a Territory of the Commonwealth except after the furnishing of such security as the Treasurer may require; and
- (e) such other conditions as the Treasurer thinks necessary are fulfilled.

10.—(1.) The Treasurer shall not give a guarantee under this Part unless undertakings are given to the satisfaction of the Minister for compliance by the Company with the obligations specified in section thirteen of this Act so long as any moneys

Rationalization
conditions of
guarantees.

in respect of which a guarantee is given under this Part remain unpaid or any liability to the Commonwealth arising out of such a guarantee remains undischarged and such other undertakings are given by the Company as the Minister considers necessary.

(2.) While the Company is subject to the obligations specified in section thirteen of this Act, the Commission is, by force of this Act, also subject to those obligations.

PART IV.—RATIONALIZATION OF AIRCRAFT FLEETS.

Definitions.

11. In this Part, unless the contrary intention appears—

“aircraft capacity”, in relation to aircraft, means, in respect of a period, the number of revenue traffic ton-miles capable of being performed by the aircraft in the period;

“competitive route” means a route over which air services are operated both by the Commission and by the Company, and “non-competitive route” means any other route;

“revenue load factor”, in relation to an aircraft, means, in respect of a period, the percentage that the revenue value of the work performed on the flights made by the aircraft during that period is of the revenue value of the work that could have been performed on those flights, ascertained in accordance with the equation—

$$A = \frac{100 (B + CD)}{E}$$

where—

A is the revenue load factor;

B is the number of passenger ton-miles performed by the aircraft in the period, based on a passenger weight (including free baggage) of two hundred pounds;

C is the non-passenger revenue traffic ton-miles performed by the aircraft in the period;

D is the ratio of the revenue yield per ton-mile of non-passenger traffic to the revenue yield per ton-mile of passenger traffic; and

E is the total revenue traffic ton-miles for which the aircraft could have been used on the flights performed in the period;

“ton” means two thousand pounds weight;

“traffic” means traffic in respect of passengers, cargo and mails.

12.—(1.) The Minister shall, from time to time, in relation to a specified future period—

Determination
by Minister
of overall
aircraft
capacity.

- (a) estimate the total traffic on—
 - (i) each of the competitive routes;
 - (ii) the non-competitive routes of the Commission; and
 - (iii) the non-competitive routes of the Company; and
- (b) determine the maximum aircraft capacity of the aircraft required by the Commission and the Company, respectively, for the purposes of—
 - (i) carrying one-half of the total traffic estimated by the Minister in respect of the competitive routes; and
 - (ii) operating its services on non-competitive routes.

(2.) For the purposes of this section, the Minister shall have regard to—

- (a) rates of traffic increase;
- (b) the types, speeds and reasonable extent of utilization of the aircraft proposed to be used;
- (c) the revenue load factor that would be the optimum revenue load factor for the operation of aircraft on each route during the period concerned, due consideration being given to the interests of the public and the maintenance of a proper relation between revenue and costs;
- (d) the necessity for the overhaul and maintenance of aircraft;
- (e) the necessity for having aircraft available to meet emergency situations;
- (f) aircrew training requirements;
- (g) any services operated otherwise than by the Commission or the Company on non-competitive routes; and
- (h) any other factors affecting the stability of the domestic air transport industry.

(3.) Where the Minister makes an estimate and a determination under sub-section (1.) of this section, he shall, not less than twenty-eight days before the commencement of the relevant period, give notice of the terms of the estimate and of the determination to the Commission and to Ansett Transport Industries Limited and shall, in the notice, specify the portion of the determined aircraft capacity that is related to traffic on the competitive routes.

Conditional
obligations of
Commission
and Company.

13. The obligations that are, in accordance with section ten of this Act, to become applicable to the Company and the Commission upon the giving of a guarantee on behalf of the Commonwealth under section eight of this Act are the following:—

- (a) where the Minister has made a determination under the last preceding section in relation to a period—an obligation not to provide, on the competitive routes, during that period, air services capable of performing a number of revenue traffic ton-miles in excess of the aircraft capacity specified in respect of the competitive routes in the notice under sub-section (3.) of the last preceding section;
- (b) where, at any time during a period in relation to which the Minister has made a determination under the last preceding section, the Minister—
 - (i) notifies the Commission or Ansett Transport Industries Limited that he is satisfied that the aircraft owned, operated, or otherwise available for use, by the Commission or the Company, as the case may require, exceed the aircraft required to provide, in that period, the aircraft capacity determined in relation to the Commission or the Company, as the case may be, and to fulfil any arrangements for the use by an operator other than the Commission or the Company of any aircraft operated by the Commission or the Company, as the case may be; and
 - (ii) directs the disposal of aircraft to a specified extent (being the extent which the Minister considers necessary to eliminate the excess),
an obligation to comply with the direction within the time specified by the Minister;
- (c) an obligation not to purchase, lease or otherwise obtain the use of any aircraft unless the Minister has certified in writing that, in his opinion, the obtaining of the aircraft will not result in the Commission or the Company, as the case may be, having the use of any aircraft in excess of the aircraft required to provide the aircraft capacity determined from time to time under the last preceding section, and that, in his opinion, the obtaining of an aircraft of the type proposed to be obtained will not, having regard to the types of aircraft operated by the Commission and

the Company or in respect of which any other certificate under this paragraph has been or is proposed to be issued, be detrimental to the stability of the domestic air transport industry; and

- (d) an obligation to furnish to the Minister, within such times as the Minister specifies, such information in respect of traffic as the Minister requires.

14.—(1.) The Director-General of Civil Aviation may, from time to time, convene conferences to be attended by representatives of the Department of Civil Aviation, the Commission and the Company, for the purpose of considering matters relevant to the making of estimates and determinations by the Minister under this Part.

*Consultation
between airlines
and Director-
General.*

(2.) The Director-General shall report to the Minister any conclusions arrived at or views expressed at a conference held in pursuance of this section, and the Minister shall, before making an estimate or determination under this Part, give full consideration to any such conclusion or views.

15. The Minister shall not, in the exercise of his powers under this Part, unfairly discriminate in favour of the Commission or the Company as against the other.

*Minister
to accord
Commission
and Company
equal treatment.*