



Qantas Sale Act 1992

No. 196, 1992

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About this compilation

This is a compilation of the *Qantas Sale Act 1992* that shows the text of the law as amended and in force on 1 July 2007 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Qantas Sale Act 1992

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Compilation No. 12

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An Act relating to the sale of Qantas Airways Limited, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Qantas Sale Act 1992*.

2 Commencement

- (1) Sections 1, 2, 3, 24, 28, 40 and 41 and Parts 2, 3 and 4 commence on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
- (3) A Proclamation may fix a day that is earlier than the day on which the Proclamation is published in the *Gazette* but only if:
 - (a) in the case of sections 30, 31, 35, 37, 39, 43 and 50 and Parts 1 and 2 of the Schedule—the day is not earlier than the substantial minority sale day; and
 - (b) in the case of sections 22, 23, 26, 27, 29, 32, 33, 34, 42, 45, 46, 47, 48 and 49 and Parts 3 and 4 of the Schedule—the day is not earlier than the 50% sale day; and
 - (c) in the case of sections 25, 36, 38, 44 and 51 and Parts 5, 6 and 7 of the Schedule—the day is not earlier than the 100% sale day.
- (4) If, on the 100% sale day, sections 35, 37, 43 and 50 and Part 1 of the Schedule have not commenced, then, on the day on which Part 7 of the Schedule commences, sections 35, 36, 37, 38, 43, 44, 50 and 51 and Parts 1 and 5 of the Schedule are taken to have been repealed.

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- (5) If, on the 100% sale day, Part 3 of the Schedule has not commenced, then, on the day on which Part 7 of the Schedule commences, Parts 3 and 6 of the Schedule are taken to have been repealed.
- (6) If a provision of this Act has not commenced before 31 August 1995, the provision is taken to have been repealed on that day.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

Australian Airlines means Australian Airlines Limited, as the company exists from time to time (even if its name is later changed).

Australian Airlines subsidiary means a body corporate that is a subsidiary of Australian Airlines.

borrowing, in relation to Qantas or a Qantas subsidiary, includes raising money or obtaining credit, whether by dealing in securities or otherwise.

employee includes an apprentice.

leasing contract, in relation to Qantas or a Qantas subsidiary, means:

- (a) a contract relating to the leasing of equipment (including aircraft); or
- (b) a hire purchase contract.

Long Service Leave Act means the *Long Service Leave (Commonwealth Employees) Act 1976* as in force immediately before the commencement of Part 5 of this Act.

mandatory article means a provision included in Qantas' articles of association in accordance with subsection 7(1).

Qantas means Qantas Airways Limited, as the company exists from time to time (even if its name is later changed).

Qantas subsidiary means a body corporate that is a subsidiary of Qantas.

share, in relation to a body corporate, means a share in the body's share capital.

SRC Act means the *Safety, Rehabilitation and Compensation Act 1988*.

substantial minority sale day means the day declared under subsection 4(1).

the 50% sale day means the day declared under subsection 5(1).

the 100% sale day means the day declared under subsection 6(1).

voting share has the same meaning as in the *Corporations Act 2001*.

- (2) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the *Corporations Act 2001*.
- (3) For the purposes of this Act, a reference to voting shares in Qantas being acquired by a person includes a reference to voting shares in Qantas being issued or allotted to a person.

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Part 2—Determination of substantial minority, 50% and 100% sale days

4 The substantial minority sale day

- (1) The Minister for Finance may, by notice in the *Gazette*, declare a specified day to be the substantial minority sale day.
- (2) The day to be specified in the notice under subsection (1) is the day that, in the opinion of the Minister for Finance, is the first day after the commencement of this Part on which a substantial minority of voting shares in Qantas were acquired by a person, or persons, other than the Commonwealth or a nominee of the Commonwealth.

5 The 50% sale day

- (1) The Minister for Finance may, by notice in the *Gazette*, declare a specified day to be the 50% sale day.
- (2) The day to be specified in the notice under subsection (1) is the day that, in the opinion of the Minister for Finance, is the first day after the commencement of this Part on which voting shares in Qantas acquired by a person, or persons, other than the Commonwealth or a nominee of the Commonwealth, total 50% or more of the voting shares in Qantas.

6 The 100% sale day

- (1) The Minister for Finance must, by notice in the *Gazette*, declare a specified day to be the 100% sale day.
- (2) The day to be specified in the notice under subsection (1) is the day that, in the opinion of the Minister for Finance, is the first day after the commencement of this Part on which voting shares in Qantas acquired by a person, or persons, other than the Commonwealth or

a nominee of the Commonwealth, total 100% of the voting shares in Qantas.

- (3) A notice under subsection (1) must be published within 14 days of the specified day.

Part 3—Requirements regarding Qantas' articles of association

7 Qantas' articles of association to include certain provisions

- (1) The articles of association of Qantas must, on and from the day on which Qantas first becomes aware that a person, other than the Commonwealth or a nominee of the Commonwealth, has acquired voting shares in Qantas:
 - (a) impose restrictions on the issue and ownership (including joint ownership) of shares in Qantas so as to prevent foreign persons having relevant interests in shares in Qantas that represent, in total, more than 49% of the total value of the issued share capital of Qantas; and
 - (aa) impose restrictions on the issue and ownership (including joint ownership) of shares in Qantas so as to prevent foreign airlines having relevant interests in shares in Qantas that represent, in total, more than 35% of the total value of the issued share capital of Qantas; and
 - (b) impose restrictions on the issue and ownership (including joint ownership) of shares in Qantas so as to prevent any one foreign person having relevant interests in shares in Qantas that represent more than 25% of the total value of the issued share capital of Qantas; and
 - (c) impose restrictions on the counting of votes in respect of the appointment, replacement and removal of a director of Qantas so as to prevent the votes attaching to all substantial foreign shareholdings being counted in respect of the appointment, replacement or removal of more than one-third of the directors of Qantas who hold office, at any particular time; and
 - (d) confer the following powers on the directors of Qantas to enable the directors to enforce the restrictions referred to in paragraphs (a), (b) and (c):

- (i) the power to do anything necessary to effect the transfer of shares held by a person;
 - (ii) the power to remove or limit the right of a person to exercise voting rights attached to voting shares;
 - (iii) the power to end the appointment of a person to the office of director of Qantas; and
- (e) prohibit Qantas from taking any action to bring about a change of its company name to a name that does not include the expression “Qantas”; and
- (f) prohibit Qantas from conducting scheduled international air transport passenger services under a name other than:
- (i) its company name; or
 - (ii) a registered business name that includes the expression “Qantas”; and
- (g) require that the head office of Qantas always be located in Australia; and
- (h) require that of the facilities, taken in aggregate, which are used by Qantas in the provision of scheduled international air transport services (for example, facilities for the maintenance and housing of aircraft, catering, flight operations, training and administration), the facilities located in Australia, when compared with those located in any other country, must represent the principal operational centre for Qantas; and
- (i) require that, at all times, at least two-thirds of the directors of Qantas are to be Australian citizens; and
- (j) require that, at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and
- (k) prohibit Qantas, at all times, from taking any action to become incorporated outside Australia.
- (2) For the purposes of this section, a person has a relevant interest in a share if, and only if, the person would be taken to have a relevant interest in the share for the purposes of the *Corporations Act 2001* if paragraph 608(3)(a) of that Act were disregarded.

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- (3) For the purposes of this section, the question whether a person who is not an Australian citizen is ordinarily resident in Australia at a particular time is to be determined in the same manner as that question is determined under the *Foreign Acquisitions and Takeovers Act 1975*.
- (4) For the purposes of this section, a reference to a substantial foreign shareholding is a reference to a shareholding of 15% or more of the voting shares in Qantas in which a particular foreign person has a relevant interest.
- (5) Qantas must publish a notice in the *Gazette* specifying the day on which Qantas first becomes aware that a person, other than the Commonwealth or a nominee of the Commonwealth, has acquired voting shares in Qantas.
- (6) A notice under subsection (5) must be published within 14 days of the specified day.
- (7) In this section:

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air.

air service means a service of providing air transportation of people or goods, or both people and goods, by:

- (a) regular public transport operation; or
- (b) charter operation.

another country includes any region:

- (a) that is part of a foreign country; or
- (b) that is under the protection of a foreign country; or
- (c) for whose international relations a foreign country is responsible.

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007*.

Australian international airline means an international airline (other than Qantas) that may be permitted to carry people or goods,

or both people and goods, under a bilateral arrangement as an airline designated by Australia to operate a scheduled international air service.

Australian person means:

- (a) an individual who is an Australian citizen or is ordinarily resident in Australia; or
- (b) the Commonwealth, a State or a Territory; or
- (c) a person who is a nominee of the Commonwealth or of a State or a Territory; or
- (d) a Commonwealth, State or Territory authority; or
- (e) a person who is a nominee of a Commonwealth, State or Territory authority; or
- (f) a local government body (whether incorporated or not) formed by or under a law of a State or a Territory; or
- (g) a person who is a nominee of a local government body referred to in paragraph (f) or
- (h) a body corporate that:
 - (i) is incorporated by or under a law of the Commonwealth or of a State or a Territory; and
 - (ii) is substantially owned and effectively controlled by persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (i); or
- (i) a person in the capacity of a trustee, or manager, of a fund in which the total interests (if any) of persons referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) represent 60% or more of the total interests in the fund.

Australian territory means:

- (a) the territory of Australia and of every external Territory; and
- (b) the territorial sea of Australia and of every external Territory; and
- (c) the air space over any such territory or sea.

bilateral arrangement means an agreement or arrangement between:

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(a) Australia, or an entity or organisation nominated or otherwise similarly authorised by Australia to enter into the agreement or arrangement; and

(b) another country;

under which the carriage by air of people or goods, or both people and goods, between Australia and the other country is permitted.

charter operation means an operation of an aircraft for the purpose of:

(a) a service of providing air transportation of people or goods, or both people and goods, that:

(i) is provided for a fee payable by persons using the service; and

(ii) is not available to the general public on a regular basis; whether or not the service is conducted in accordance with fixed schedules to or from fixed terminals over specific routes; or

(b) a service of providing air transportation of people or goods, or both people and goods, that:

(i) is provided for a fee payable by persons using the service; and

(ii) is available to the general public on a regular basis; and

(iii) is not conducted in accordance with fixed schedules to or from fixed terminals over specific routes; or

(c) a service of providing air transportation of people or goods, or both people and goods, that:

(i) is not provided for a fee payable by persons using the service; and

(ii) is conducted in accordance with fixed schedules to or from fixed terminals over specific routes; and

(iii) is not available to the general public.

company name, in relation to Qantas, has the same meaning as in the *Corporations Act 2001*.

foreign airline means an air transport enterprise other than:

- (a) an Australian international airline; or
- (b) Qantas; or
- (c) an air transport enterprise offering or operating an air service solely within Australian territory.

foreign person means:

- (a) a foreign airline; or
- (b) a person (other than a foreign airline) who is not an Australian person.

head office, in relation to Qantas, means the place of business of Qantas where central management and control are exercised.

international airline means an air transport enterprise offering or operating an international air service.

international air service means an air service provided by means of a flight:

- (a) from a place within Australia to a place outside Australia; or
- (b) from a place outside Australia to a place within Australia.

registered business name means a name that is registered under a law of a State or Territory that relates to the registration of business names.

regular public transport operation means an operation of an aircraft for the purpose of an air service that:

- (a) is provided for a fee payable by persons using the service; and
- (b) is conducted in accordance with fixed schedules to or from fixed terminals over specific routes; and
- (c) is available to the general public on a regular basis.

8 Inconsistent alterations to Qantas' articles of association to have no effect

- (1) A special resolution of Qantas that would, apart from this subsection, have the effect of altering Qantas' articles of

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association so that the articles would not comply with section 7 is to have no effect.

- (2) A special resolution or resolution of Qantas that:
- (a) would, if acted on and apart from this subsection, result in a contravention of the mandatory articles; or
 - (b) would, apart from this subsection, ratify an act or omission that contravenes the mandatory articles;
- is to have no effect.

- (3) In this section:

resolution has the same meaning as in the *Corporations Act 2001*;

special resolution has the same meaning as in the *Corporations Act 2001*.

9 Qantas to maintain a register of shares in which foreign persons have a relevant interest

- (1) Qantas must on and after the day on which Qantas first becomes aware that a person, other than the Commonwealth or a nominee of the Commonwealth, has acquired voting shares in Qantas, maintain a register of:
- (a) shares that are acknowledged in writing by the registered owner of those shares to be shares in which a foreign person has a relevant interest; or
 - (b) shares that the directors of Qantas have, after reasonable inquiries, declared to be shares in which a foreign person has a relevant interest.
- (2) If the Minister gives Qantas a written request that Qantas give to him or her the register or a copy of the register at such reasonable time and reasonable place as the Minister specifies, Qantas must give the Minister the register or the copy of the register, as the case requires, in accordance with the request.
- (3) For the purposes of this section, a person has a relevant interest in a share if, and only if, the person would be taken to have a relevant

interest in the share for the purposes of the *Corporations Act 2001* if paragraph 608(3)(a) of that Act were disregarded.

(4) In this section:

foreign person has the same meaning as in section 7.

registered owner means the person who appears in the register of members as the holder of the shares.

register of members has the same meaning as in the *Corporations Act 2001*.

10 Injunctions

- (1) If Qantas or any other person has engaged, is engaging or is proposing to engage in conduct constituting:
- (a) a contravention of the mandatory articles or section 9; or
 - (b) attempting to contravene the mandatory articles or section 9; or
 - or
 - (c) aiding, abetting, counselling or procuring a person to contravene the mandatory articles or section 9; or
 - (d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene the mandatory articles or section 9; or
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the mandatory articles or section 9; or
 - (f) conspiring with others to contravene the mandatory articles or section 9;

the Court may, on the application of the Minister, grant an injunction, on such terms as the Court thinks appropriate, restraining Qantas or the person from engaging in the conduct and, if in the opinion of the Court, it is desirable to do so, requiring Qantas or that person, as the case may be, to do any act or thing.

- (2) If Qantas or any other person has refused or failed, is refusing, or failing, or is proposing to refuse or fail, to do an act or thing that

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Qantas or the person is required by the mandatory articles to do, the Court may, on the application of the Minister, grant an injunction, on such terms as the Court thinks appropriate, requiring Qantas or the person to do that act or thing.

- (3) On an application for an injunction under subsection (1) or (2), the Court may, if the Court determines it to be appropriate, grant an injunction by consent of all the parties to the proceeding, whether or not the Court is satisfied that that subsection applies.
- (4) If in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).
- (5) The Court may discharge or vary an injunction granted under this section.
- (6) The power of the Court to grant an injunction restraining Qantas or any other person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the Court that Qantas or the person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not Qantas or the person has previously engaged in conduct of that kind; and
 - (c) whether or not there is an imminent danger of substantial damage to any person if Qantas or the first-mentioned person engages in conduct of that kind.
- (7) The power of the Court to grant an injunction requiring Qantas or any other person to do an act or thing may be exercised:
 - (a) whether or not it appears to the Court that Qantas or the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
 - (b) whether or not Qantas or the person has previously refused or failed to do that act or thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any person if Qantas or the first-mentioned person refused or fails to do that act or thing.

- (8) If the Minister applies to the Court for the grant of an injunction under this section, the Court must not require the Minister, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (9) If the Court has power under this section to grant an injunction restraining Qantas or a person from engaging in particular conduct, or requiring Qantas or a person to do a particular act or thing, the Court may, either in addition to or in substitution for the grant of the injunction, make such other order or orders as it thinks appropriate against Qantas or the person who engaged in the conduct or a person who was involved in the contravention.
- (10) In this section:
- Court* means the Federal Court of Australia.

11 Delegation by Minister

- (1) The Minister may delegate his or her powers and functions under this Part to an SES employee or acting SES employee in the Department.

12 Jurisdiction of courts

The Federal Court of Australia has jurisdiction with respect to matters arising under section 10 and that jurisdiction is exclusive of the jurisdiction of all other courts, other than the jurisdiction of the High Court under section 75 of the Constitution.

13 This Part to have effect despite Corporations Act

This Part has effect despite any provision of the *Corporations Act 2001*.

Part 4—Debt and capital reconstruction in connection with the sale of Qantas

Division 1—Commonwealth guarantees

14 Commonwealth guarantee of certain borrowings

- (1) Subject to subsection (3), the Treasurer may, on the Commonwealth's behalf:
 - (a) before the 100% sale day; and
 - (b) in order to facilitate, either directly or indirectly, the sale of shares in Qantas;
enter into a written agreement under which the Commonwealth guarantees the performance by Qantas, or a Qantas subsidiary, of an obligation of Qantas or the subsidiary if the obligation is:
 - (c) an obligation in connection with a borrowing undertaken by Qantas or the subsidiary; or
 - (d) an obligation in connection with a leasing contract entered into by Qantas or the subsidiary.
- (2) If the Treasurer determines in writing, at any time before the 100% sale day, that the Commonwealth guarantees the performance by Qantas or a Qantas subsidiary of a specified obligation of a kind referred to in subsection (1), the performance by Qantas or the subsidiary of that obligation is, by force of this subsection, guaranteed by the Commonwealth.
- (3) The Treasurer must not, by an agreement under subsection (1), provide a guarantee that would have effect after the 100% sale day.
- (4) A guarantee under subsection (2) does not have effect after the 100% sale day.
- (5) A guarantee under subsection (2) is subject to such terms and conditions (if any) as are specified in the determination.

Division 2—Appropriation to enable the provision of share capital to, or the assumption of certain debts in connection with, Qantas

15 Payment for share subscription

- (1) Subject to subsection (4), the Minister for Finance may:
 - (a) on or before the 100% sale day; and
 - (b) in order to facilitate, either directly or indirectly, the sale of shares in Qantas;authorise the payment to Qantas of all or part of the money payable for shares in Qantas that are to be issued to the Commonwealth or a nominee of the Commonwealth.
- (2) If the Minister for Finance authorises a payment of money under subsection (1), the Minister may give a written direction to Qantas:
 - (a) directing:
 - (i) that the money, or a specified part of the money, be used for the purpose of discharging a particular obligation of Qantas or a Qantas subsidiary; and
 - (ii) that the money, or the part of the money, be so used before a specified day; or
 - (b) directing:
 - (i) that the money, or a specified part of the money, be paid to the Commonwealth in relation to an obligation to be taken over by the Commonwealth under section 16; and
 - (ii) that the money, or the part of the money, be so paid before a specified day.
- (3) If an amount, in respect of which a direction is given under subsection (2), is not used in accordance with that direction, an amount equal to the amount of money becomes a debt due to the Commonwealth.

Part 4 Debt and capital reconstruction in connection with the sale of Qantas

Division 2 Appropriation to enable the provision of share capital to, or the assumption of certain debts in connection with, Qantas

Section 16

- (4) The total of all amounts paid under subsection (1) must not exceed \$1,400,000,000.

16 Commonwealth takeover of certain Commonwealth-guaranteed obligations in connection with Qantas

- (1) The Treasurer may, on the Commonwealth's behalf:
- (a) on or before the 100% sale day; and
 - (b) in order to facilitate, either directly or indirectly, the sale of shares in Qantas;
- enter into an agreement to take over:
- (c) an obligation of Qantas, the performance of which is guaranteed by the Commonwealth under a Qantas Loan Guarantee Act; or
 - (d) a further obligation of Qantas in connection with an obligation of the kind referred to in paragraph (c).
- (2) An agreement under subsection (1) may also provide:
- (a) for the release, by the Commonwealth, of any security given under the Act in question to the Commonwealth over property of Qantas in connection with the guarantee; or
 - (b) for the release, by the Commonwealth, of Qantas from any undertaking given to the Commonwealth by Qantas under the Act in question in relation to that security.
- (3) If the Treasurer enters into an agreement under subsection (1), the Treasurer may authorise the payment of money to discharge the Commonwealth's obligations under the agreement, whether by terminating those obligations or otherwise.

- (4) In this section:

Qantas Loan Guarantee Act means any of the following Acts:

- (a) the *Qantas Airways Limited (Loan Guarantee) Act 1976*;
- (b) the *Qantas Airways Limited (Loan Guarantee) Act 1978*;
- (c) the *Qantas Airways Limited (Loan Guarantee) Act 1979*;
- (d) the *Qantas Airways Limited (Loan Guarantee) Act 1980*;

- (e) the *Qantas Airways Limited (Loan Guarantee) Act 1984*;
- (f) the *Qantas Airways Limited (Loan Guarantee) Act 1985*;
- (g) the *Qantas Airways Limited (Loan Guarantee) Act 1988*;
- (h) the *Qantas Airways Limited (Loan Guarantee) Act 1989*.

17 Commonwealth takeover of certain obligations in connection with Qantas other than those referred to in section 16

- (1) This section applies to an obligation (whether contingent or otherwise) of Qantas or a Qantas subsidiary, other than an obligation of the kind referred to in subsection 16(1).
- (2) Subject to subsection (4), the Treasurer may, on the Commonwealth's behalf:
 - (a) on or before the 100% sale day; and
 - (b) in order to facilitate, either directly or indirectly, the sale of shares in Qantas;enter into an agreement to take over an obligation to which this section applies.
- (3) If the Treasurer enters into an agreement under subsection (2), the Treasurer may authorise the payment of money to discharge the Commonwealth's obligations under the agreement, whether by terminating those obligations or otherwise.
- (4) The total of the principal amounts in relation to obligations taken over under subsection (2) must not exceed \$300,000,000.
- (5) In this section:

principal amount, in relation to an obligation taken over under this section, means the amount of money in respect of which the obligation originally arose less any part of that amount in respect of which the obligation has been satisfied at the time it is taken over.

Part 4 Debt and capital reconstruction in connection with the sale of Qantas

Division 2 Appropriation to enable the provision of share capital to, or the assumption of certain debts in connection with, Qantas

Section 18

18 Appropriation

A payment under subsection 15(1), 16(3) or 17(3) must be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

19 Application of the *Loans Securities Act 1919*

Sections 5A, 5B, 5C and 5D (other than paragraphs (1)(c) and (2)(c)) of the *Loans Securities Act 1919* apply in relation to an obligation that is taken over by the Commonwealth under section 16 or 17 as if that obligation were a borrowing of money outside Australia:

- (a) that the Treasurer was authorised to make on behalf of the Commonwealth; and
- (b) that the Treasurer made accordingly.

Division 3—Miscellaneous

20 Anything done under this Part taken not to be form of Commonwealth finance

- (1) This section applies to the following Acts:
 - (a) the *Australian Federal Police Act 1979*;
 - (b) the *Crimes (Superannuation Benefits) Act 1989*;
 - (c) the *Defence Force Retirement and Death Benefits Act 1973*;
 - (e) the *Public Service Act 1999*;
 - (f) the *Superannuation Act 1976*;
 - (g) the *Superannuation Act 1990*;
 - (h) the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

- (2) For the avoidance of doubt, it is declared that anything done under this Part is not to be taken into account in determining whether, for the purposes of an Act to which this section applies or an instrument made under such an Act, a company is financed:
 - (a) wholly or substantially; or
 - (b) directly or indirectly;by the Commonwealth.

21 This Part to have effect despite Corporations Act

This Part has effect despite any provision of the *Corporations Act 2001* of a State or an internal Territory.

Section 22

**Part 5—Amendment of the Long Service Leave
(Commonwealth Employees) Regulations**

22 Principal Regulations

In this Part, *Principal Regulations* means the Long Service Leave (Commonwealth Employees) Regulations.

23 Schedule 1A

- (1) Schedule 1A of the Principal Regulations is amended by omitting Item 3.
- (2) The amendment of the Principal Regulations by subsection (1) is not intended to prevent the Principal Regulations, as so amended, being amended or repealed by the Governor-General.

**Part 6—Repeal of the Qantas Empire Airways Act
1948 and the Australian National Airlines
Act 1945**

24 Repeal of the *Qantas Empire Airways Act 1948*

The *Qantas Empire Airways Act 1948* is repealed.

Part 7—Transitional and saving provisions

26 Transitional long service leave provisions relating to employees of Australian Airlines

- (1) If, immediately before the commencement of Part 5, the period of service of an employee of Australian Airlines, for the purposes of the Long Service Leave Act, is less than 10 years, then, if:
 - (a) the employee continues to be employed by Qantas or a Qantas subsidiary (*the employer*) so that the employee's period of service is at least 10 years; or
 - (b) the employee is to cease to be an employee of the employer, otherwise than because of the employee's death, on or after the employee reaches the minimum retiring age and the employee's period of service with the employer is not less than one year; or
 - (c) the employee is to cease to be an employee of the employer because of retrenchment and the employee's period of service with the employer is not less than one year;the employer may, at any time, grant the employee long service leave on full salary for a period not exceeding the employee's long service leave credit under subsection (3) at that time.
- (2) Subject to subsections (6) and (7), if, immediately before the commencement of Part 5, the period of service of an employee of Australian Airlines, for the purposes of the Long Service Leave Act, is less than 10 years, then, if:
 - (a) the employee ceases to be an employee of the employer, otherwise than because of the death of the employee, on or after the employee reaches the minimum retiring age and the employee's period of service with the employer is not less than one year; or
 - (b) the employee ceases to be an employee of the employer because of retrenchment and the employee's period of

service with the employer before the employee ceases to be an employee is not less than one year; or

- (c) the employee ceases to be an employee of the employer and satisfies the employer that the employee's so ceasing is because of ill health of such a nature as to justify his or her so ceasing and the employee's period of service with the employer is not less than one year; or
- (d) the employee ceases to be an employee of the employer on or after the day on which the employee's period of service reaches 10 years;

the employer must make a payment to the employee of an amount equal to the amount of full salary that would be payable to the employee for a period of long service leave equal to the period of the employee's long service leave credit under subsection (3A) immediately before the employee ceases to be an employee as if salary were payable to the employee in respect of that period.

- (3) For the purposes of subsection (1), an employee's long service leave credit is equal to the long service leave credit that the employee would have under the Long Service Leave Act for the period:
 - (a) beginning when the employee started his or her period of service; and
 - (b) ending immediately before the commencement of Part 5 of this Act;

if it were assumed that the employee had been retrenched immediately before the commencement of Part 5 of this Act

- (3A) For the purposes of subsection (2), an employee's long service leave credit is the employee's long service leave credit worked out under subsection (3), reduced by any long service leave credit used under subsection (1).
- (4) Long service leave granted in the circumstances set out in paragraph (1)(b) or (c) is to be taken so as to expire immediately before the employee is to cease to be an employee.

Section 26

- (5) If a period of long service leave may be granted to an employee under subsection (1), the employer may, at the request of the employee, grant the employee long service leave on half salary for a period not exceeding twice that first-mentioned period.
- (6) Subsection (2) does not apply to an employee who, by written notice given to his or her employer before the employee ceases to be an employee, requests the employer not to make a payment to the employee under that subsection.
- (7) If an employee by written notice given to his or her employer before the employee ceases to be an employee, requests the employer to make a payment to him or her, on ceasing to be an employee, of a specified amount that is less than the amount that, apart from this subsection, would be payable to the employee under subsection (2), the employer must not make a payment of an amount greater than the specified amount.
- (8) If:
- (a) immediately before the commencement of Part 5, the period of service of an employee of the employer, for the purposes of the Long Service Leave Act, is less than 10 years; and
 - (b) the employee dies and the employee's period of service with the employer before the employee's death is not less than one year;
- the employer must authorise payment to a dependant of the employee of an amount equal to, or to 2 or more dependants of the employee of amounts aggregating, the amount that would have been payable to the employee under subsection (2) if the employee had, on the day on which the employee died, ceased to be an employee, otherwise than because of the employee's death, on or after reaching the minimum retiring age.
- (9) If subsection (8) applies, section 23 of the Long Service Leave Act has effect as if:
- (a) that section applied to an employee of Qantas or a Qantas subsidiary; and

- (b) a reference in that section to the approving authority were a reference to Qantas or a Qantas subsidiary; and
 - (c) for the expression in that section “for the purposes of this Act” there were substituted the expression “for the purposes of section 26 of the *Qantas Sale Act 1992*”; and
 - (d) for the expression in subsection 23(1) of the Long Service Leave Act “this Act” there were substituted the expression “section 26 of the *Qantas Sale Act 1992*”; and
 - (e) for the expression in subsections 23(2) and (3) of the Long Service Leave Act “subsection 16(7) or 17(5)” there were substituted the expression “subsection 26(8) of the *Qantas Sale Act 1992*”; and
 - (f) for the expression in subsection 23(4) of the Long Service Leave Act “an amount is payable under this Act” there were substituted the expression “an amount is payable under section 26 of the *Qantas Sale Act 1992*”.
- (10) For the purposes of subsection (1), the rate of salary to be used in working out the full salary of an employee is the rate applicable to the employee under section 20 of the Long Service Leave Act as if:
- (a) that section applied to the employee; and
 - (b) for the expression in that section “section 16 or 17” there were substituted the expression “subsection 26(1) of the *Qantas Sale Act 1992*”.
- (11) For the purposes of subsection (2), the rate of salary to be used in working out the full salary of an employee is the rate applicable to the employee under section 21 of the Long Service Leave Act as if:
- (a) that section applied to the employee; and
 - (b) for the expression in that section “section 16 or 17” there were substituted the expression “subsection 26(2) of the *Qantas Sale Act 1992*”.
- (12) To avoid doubt, it is declared that this section does not affect an employee’s post-sale long service leave rights.

Section 27

(13) Unless the contrary intention appears, expressions used in this section and in the Long Service Leave Act have the same respective meanings as in that Act.

(14) In this section:

employee includes a person employed in a full-time or part-time capacity;

law means:

- (a) a law of the Commonwealth or of a State or a Territory; or
- (b) regulations or any other instrument (other than an award, determination or industrial agreement) made under such a law.

post-sale long service leave rights, in relation to an employee, means any long service leave rights an employee acquires under an award, determination, industrial agreement or law (other than this Act) after the commencement of this section.

27 Transitional provisions relating to the SRC Act

- (1) If a terminating event occurs in relation to Australian Airlines, then, despite the terminating event:
 - (a) the SRC Act continues to apply in relation to an injury or loss of, or damage to, property suffered or incurred by employees of Australian Airlines before the terminating event as if Australian Airlines continued to be a Commonwealth authority after the terminating event; and
 - (b) Part VI of the SRC Act continues to apply in respect of claims referred to in paragraph (a) as if the reference to the Commonwealth were a reference to Australian Airlines; and
 - (c) section 71 of the SRC Act continues to apply to Australian Airlines in respect of claims referred to in paragraph (a) as if:
 - (i) Australian Airlines continued to be a Commonwealth authority after the terminating event; and

- (ii) the Chief Executive Officer (however described) continued to be a principal officer of a Commonwealth authority after the terminating event; and
 - (d) Part III or X of the SRC Act continues to apply in relation to an employee or former employee, as the case may be, of Australian Airlines who suffered an injury before the terminating event; and
 - (e) the Chief Executive Officer (however described) of Australian Airlines continues to be a rehabilitation authority in relation to an employee referred to in paragraph (a); and
 - (f) Division 4A of Part VII of the SRC Act continues to apply to Australian Airlines as if:
 - (i) Australian Airlines continued to be a Commonwealth authority; and
 - (ii) Australian Airlines ceased to be required to pay a premium under that Division in respect of that part of a financial year which occurs after the day on which the terminating event occurred; and
 - (iii) the following word and paragraph were added to the end of subsection 96H(1):

“; or (f) in the case of an authority—the authority ceased to be required to pay a premium under this Division in respect of part of a financial year.”; and
 - (g) Part VIIIA of the SRC Act continues to apply to Australian Airlines as if:
 - (i) Australian Airlines continued to be a Commonwealth authority after the terminating event; and
 - (ii) in a case where Australian Airlines has been granted a Class 1, 2 or 3 Licence under that Part—the relevant licence was revoked on the day the terminating event occurred; and
 - (h) section 128A of the SRC Act continues to apply to Australian Airlines as if Australian Airlines continued to be an authority for the purposes of subsection 128A(4) of that Act.
- (2) Despite the terminating event, Part IV (other than section 43) of the SRC Act continues to apply in relation to an employee of
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Section 28

Australian Airlines who suffered or incurred an injury or loss of, or damage to, property before the terminating event as if a reference to a Commonwealth authority were a reference to Australian Airlines.

- (3) The Chief Executive Officer (however described) of Australian Airlines must notify the Commission, within 28 days of the commencement of section 48, of the amount of salary, wages or pay paid to employees of Australian Airlines in the period commencing on 1 July in the financial year in which section 48 commences and ending on the day before section 48 commences.
- (4) If an amount of premium is payable by Australian Airlines under Division 4A of Part VII of the SRC Act and remains unpaid 60 days after the commencement of this section, that amount is a debt due to the Commonwealth and payable to Comcare.
- (5) For the purposes of this section, a terminating event occurs if Australian Airlines ceases to be a Commonwealth authority for the purposes of the SRC Act.
- (6) Unless the contrary intention appears, expressions used in this section and in the SRC Act have the same respective meanings as in that Act.

28 Transitional provisions relating to the *Commonwealth Borrowing Levy Act 1987*

- (1) Subject to subsection (2), neither Qantas nor a Qantas subsidiary is liable to pay an amount of levy imposed by the *Commonwealth Borrowing Levy Act 1987* on a borrowing (whether before or after the commencement of this section) by Qantas or the Qantas subsidiary, as the case may be, from:
 - (a) if the borrowing is not guaranteed by the Commonwealth under an Act (including this Act) on the substantial minority sale day—the substantial minority sale day; or
 - (b) if the Commonwealth takes over an obligation in connection with a borrowing under section 16 or 17—the day the Commonwealth takes over the obligation; or

- (c) in any other case—the day the borrowing ceases to be guaranteed by the Commonwealth under an Act (including this Act).
- (2) Subsection (1) does not apply in relation to an amount of levy that was paid or payable before:
 - (a) if paragraph (1)(a) applies—the substantial minority sale day; or
 - (b) if paragraph (1)(b) applies—the day the Commonwealth takes over the obligation; or
 - (c) if paragraph (1)(c) applies—the day the borrowing ceases to be guaranteed by the Commonwealth.

29 Saving—DFRDB Act

- (1) If, immediately before a terminating event, an employee of Qantas or a Qantas subsidiary was a person to whom deferred benefits were applicable under section 78 of the DFRDB Act, then, despite the terminating event and subject to Division 3 of Part IX of that Act, the employee continues to be a person to whom those deferred benefits are applicable while the employee continues to be employed by Qantas or a Qantas subsidiary.
- (2) For the purposes of subsection (1), a terminating event occurs if employment by Qantas or a Qantas subsidiary ceases to be public employment for the purposes of Division 3 of Part IX of the DFRDB Act.
- (3) If, immediately before a terminating event, a period of employment of a person by Qantas or a Qantas subsidiary was a period of eligible employment for the purposes of Division 3 of Part IX of the DFRDB Act, then, despite the terminating event, that period continues to be a period of eligible employment for the purposes of Division 3 of Part IX of that Act.
- (4) For the purposes of subsection (3), a terminating event occurs if employment by Qantas or a Qantas subsidiary ceases to be eligible employment for the purposes of Division 3 of Part IX of the DFRDB Act.

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(5) In this section:

DFRDB Act means the *Defence Force Retirement and Death Benefits Act 1973*.

30 Saving—DPP Act

- (1) Despite the DPP Act ceasing to apply to acts, omissions or proceedings because of a terminating event, that Act continues to apply in relation to:
- (a) acts or omissions that occurred before the terminating event; and
 - (b) the taking of civil remedies connected with or arising out of a prosecution that relates to acts or omissions referred to in paragraph (a).
- (2) For the purposes of this section, a terminating event occurs if Qantas or a Qantas subsidiary ceases to be an authority of the Commonwealth for the purposes of the DPP Act.

(3) In this section:

DPP Act means the *Director of Public Prosecutions Act 1983*.

31 Saving—Judiciary Act 1903

- (1) Despite section 39 of this Act, section 55E of the *Judiciary Act 1903* continues to apply in relation to:
- (a) any proceedings to which Australian Airlines is a party that were started before the commencement of this section; and
 - (b) any matter that an authorised person, by signed writing, certifies is a matter in relation to which Australian Airlines gave written instructions before the commencement of this section to the Australian Government Solicitor.
- (2) A document purporting to be a certificate under subsection (1) is, unless the contrary is established, to be taken to be such a certificate.

(3) In this section:

authorised person means:

- (a) the Secretary to the Attorney-General's Department; or
- (b) an SES employee, or acting SES employee, in the Department who is authorised by the Secretary, in writing, for the purposes of this section.

32 Saving—Long Service Leave Act

If, immediately before the commencement of Part 5, an employee of Australian Airlines has accrued rights under the Long Service Leave Act, then:

- (a) despite the amendment of the Long Service Leave (Commonwealth Employees) Regulations by this Act, the employee's accrued rights under that Act continue; and
- (b) that Act has effect after the commencement of Part 5 in relation to that employee as if Qantas or a Qantas subsidiary were an approving authority for the purposes of that Act.

33 Saving—*Superannuation Act 1922*

- (1) If, immediately before a terminating event, an employee of Qantas or a Qantas subsidiary was a person to whom deferred benefits were applicable under section 119W of the *Superannuation Act 1922*, then, despite the terminating event, the employee continues to be a person to whom those deferred benefits are applicable while the employee continues to be employed by Qantas or a Qantas subsidiary.
- (2) For the purposes of this section, a terminating event occurs if employment by Qantas or a Qantas subsidiary ceases to be public employment for the purposes of Division 3 of Part XA of the *Superannuation Act 1922*.

Section 34

34 Saving—*Superannuation Act 1976*

- (1) If, immediately before a terminating event, an employee of Qantas or a Qantas subsidiary was a person to whom deferred benefits were applicable under Division 3 of Part IX of the *Superannuation Act 1976*, then, despite the terminating event and subject to Division 3 of Part IX of that Act, the employee continues to be a person to whom those deferred benefits are applicable while the employee continues to be employed by Qantas or a Qantas subsidiary.
- (2) For the purposes of subsection (1), a terminating event occurs if employment by Qantas or a Qantas subsidiary ceases to be public employment for the purposes of Division 3 of Part IX of the *Superannuation Act 1976*.
- (3) If, immediately before a terminating event, a period of employment of a person by Qantas or a Qantas subsidiary was a period of eligible employment for the purposes of Division 3 of Part IX of the *Superannuation Act 1976*, then, despite the terminating event, the period continues to be a period of eligible employment for the purposes of Division 3 of Part IX of that Act.
- (4) For the purposes of subsection (3), a terminating event occurs if employment by Qantas or a Qantas subsidiary ceases to be eligible employment for the purposes of Division 3 of Part IX of the *Superannuation Act 1976*.

Part 8—Other provisions relating to the sale of Qantas

36 Repeal of section 35

Section 35 is repealed.

38 Repeal of section 37

Section 37 is repealed.

39 Australian Airlines not to be established by or under an Act

- (1) Australian Airlines is not taken for the purposes of a law to have been established by or under an Act unless a law expressly provides otherwise.
- (2) To avoid doubt, it is declared that subsection (1) does not affect the operation of the *Australian Airlines (Conversion to Public Company) Act 1988* or any other law before the commencement of this section.
- (3) In subsections (1) and (2):

law means:

- (a) an Act of the Commonwealth or of a State or a Territory; or
- (b) regulations or any other instrument made under such an Act.

40 Exemption from State and Territory taxes and charges

- (1) No tax is payable under a law of a State or Territory in respect of:
 - (a) an exempt matter; or
 - (b) anything done (including a transaction entered into or an instrument or document made, executed, lodged or given) because of, or for a purpose connected with or arising out of, an exempt matter.

Section 40

- (2) An authorised person may in writing certify that:
- (a) a specified matter or thing is an exempt matter; or
 - (b) a specified thing was done (including a transaction entered into, or an instrument or document made, executed, lodged or given) because of, or for a purpose connected with or arising out of, a specified exempt matter.
- (3) For all purposes and in all proceedings, a certificate under subsection (2) is conclusive evidence of the matter certified, except to the extent to which the contrary is established.
- (4) In this section:

authorised person means:

- (a) the Minister; or
- (b) the Secretary to the Department of Finance; or
- (c) an SES employee, or acting SES employee, in the Department.

exempt matter means:

- (a) the issue or allotment of shares by Qantas to the Commonwealth or another person on or before the 100% sale day; or
- (b) an agreement relating to the sale, issue or allotment of shares in Qantas between the Commonwealth and another person; or
- (c) the transfer of shares in Qantas by the Commonwealth or a nominee of the Commonwealth to another person; or
- (d) an agreement between the Commonwealth and another person relating to the assumption by a person (including the Commonwealth) of a liability of Qantas or a Qantas subsidiary as a consequence of the sale of shares in Qantas; or
- (e) the receipt of money by the Commonwealth, Qantas or a person acting on behalf of the Commonwealth or Qantas from persons who are buying or subscribing for shares in Qantas on or before the 100% sale day; or

- (f) an agreement into which the Commonwealth enters under Part 4; or
- (g) the issue or allotment of shares by Qantas to the Commonwealth or another person to give effect to an agreement referred to in paragraph (b) or (f) on or before the 100% sale day; or
- (h) the release of a security referred to in subsection 16(2); or
- (i) the operation of this Act.

tax means:

- (a) stamp duty; and
- (b) any other tax, fee (other than a fee payable under the *Corporations Act 2001* of a State or Territory), duty, levy or charge;

but does not include a tax, fee (other than a fee payable under the *Corporations Act 2001* of a State or Territory), duty, levy or charge specified in a notice signed by the Minister for Finance and published in the *Gazette*.

41 Regulations connected with the sale of Qantas

- (1) Subsection 48(2) of the *Acts Interpretation Act 1901* does not apply to regulations that include a declaration that the regulations are connected with the sale of Qantas.
- (2) Subsection (1) does not apply unless the Governor-General is satisfied, before making the regulations, that the regulations are connected with the sale of Qantas.
- (3) Regulations referred to in subsection (1) are to take effect, as declared in those regulations, on a specified day, being the day on which Part 2, 4 or 7 of the Schedule commences.

42 Cessation of certain mobility rights

- (1) If Division 2 or 3 of Part IV of the *Public Service Act 1922* applied to an employee of Qantas or a Qantas subsidiary immediately before this section commenced, then, despite section 87A of that

Section 45

Act, Division 2 or 3 of Part IV of that Act, as the case requires, ceases to apply to the employee on the day on which this section commences.

- (2) If Division 4 of Part IV of the *Public Service Act 1922* applied to an employee of Qantas or a Qantas subsidiary immediately before this section commenced, then, despite section 87TA of that Act:
- (a) the *Officers' Rights Declaration Act 1928*; and
 - (b) Division 4 of Part IV of the *Public Service Act 1922*;
- cease to apply to the employee on the day on which this section commences.

45 Refund of licence fee paid under the SRC Act

- (1) If:
- (a) the Minister for Finance has, for the purposes of this subsection, specified in writing a day (*the specified day*) in a financial year as the day on which Australian Airlines ceases to be a Commonwealth authority within the meaning of *Commonwealth authority* in the SRC Act; and
 - (b) Australian Airlines has paid a licence fee in respect of the licence fee year in which the day referred to in paragraph (a) occurs under section 107R of the SRC Act;

Australian Airlines is entitled to be paid an amount equal to the amount worked out using the following formula:

$$\text{Licence fee} \times \frac{\text{No. of refund days}}{365}$$

where:

Licence fee means the fee paid under section 107R of the SRC Act in respect of the licence fee year in which the specified day occurs.

No. of refund days means the total number of days in the period beginning on the day specified by the Minister under paragraph (a) and ending on the last day of the licence fee year in which the specified day occurs.

(2) An amount to which Australian Airlines is entitled under subsection (1) must be paid out of the Consolidated Revenue Fund which is appropriated accordingly.

(3) In this section:

licence fee year means the year beginning on the date of commencement of a licence granted under section 107J of the SRC Act and ending on the day before the anniversary of that date.

46 Refund of contribution paid under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*

(1) If:

- (a) the Minister for Finance has, for the purposes of this section, specified in writing a day in a financial year (*the specified day*) as the day on which Qantas or a Qantas subsidiary ceases to be a Commonwealth authority within the meaning of *Commonwealth authority* in the *Occupational Health and Safety (Commonwealth Employment) Act 1991*; and
- (b) Qantas or a Qantas subsidiary has paid a contribution to the cost of the administration of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* in respect of that financial year under section 67H of that Act;

then Qantas or the subsidiary, as the case may be, is entitled to be paid the amount worked out using the following formula:

$$\text{Contribution} \times \frac{\text{No. of refund days}}{365}$$

where:

Contribution means the contribution referred to in paragraph (b).

No. of refund days means the total number of days in the period beginning on the day specified under paragraph (a) and ending on the last day of the financial year in which the specified day occurs.

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- (2) An amount to which Qantas or a Qantas subsidiary is entitled under subsection (1) must be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

47 Qantas and its subsidiaries not to be eligible or relevant bodies for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*

- (1) A notice published in the *Gazette* before the commencement of this section that declares Qantas or a Qantas subsidiary to be an eligible body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* is to have effect from and including the day this section commences as if it did not contain a reference to Qantas or the Qantas subsidiary but otherwise it is to continue to have effect according to its tenor.
- (2) A notice published in the *Gazette* that declares Qantas or a Qantas subsidiary to be a relevant body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* is to have effect from and including the day this section commences as if it did not contain a reference to Qantas or the Qantas subsidiary but otherwise it is to continue to have effect according to its tenor.
- (3) The amendment of a declaration referred to in subsection (1) or (2) by subsection (1) or (2) is not intended to prevent the declaration, as so amended, being amended or revoked by the Minister.

- (4) In subsection (3):

Minister has the same meaning as in the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

48 Amendment of declaration under the SRC Act

- (1) A notice published in the *Gazette* before the commencement of this section that declares Australian Airlines to be a body corporate to which the SRC Act applies for the purposes of paragraph (c) of the definition of *Commonwealth authority* in subsection 4(1) of the SRC Act is to have effect from and including the day this section

commences as if it did not contain a reference to Australian Airlines but otherwise it is to continue to have effect according to its tenor.

(2) The amendment of a declaration referred to in subsection (1) is not intended to prevent the declaration, as so amended, being amended or revoked by the Minister.

(3) In subsection (2):

Minister has the same meaning as in the SRC Act.

49 Amendment of declaration under the *Superannuation Act 1976*

(1) A notice published in the *Gazette* before the commencement of this section that declares Australian Airlines to be an approved authority, under paragraph (a) of the definition of ***approved authority*** in subsection 3(1) of the *Superannuation Act 1976*, for the purposes of that Act is to have effect from and including the day this section commences as if it did not contain a reference to Australian Airlines but otherwise it is to continue to have effect according to its tenor.

(2) The amendment of a declaration referred to in subsection (1) is not intended to prevent the declaration, as so amended, being amended or revoked by the Minister.

(3) In subsection (2):

Minister has the same meaning as in the *Superannuation Act 1976*.

51 Repeal of section 50

Section 50 is repealed.

Schedule

Part 1 Interim amendments to be made on or after the substantial minority sale day

Schedule

Amendments of Acts relating to Qantas or its subsidiaries

Part 1—Interim amendments to be made on or after the substantial minority sale day

The following Acts are amended as set out below:

Archives Act 1983

Subsection 3(1) (paragraphs (g) and (h) of the definition of *authority of the Commonwealth*)

Omit the paragraphs, substitute:

- (g) the Northern Territory;
- (h) the Administration of an external Territory;
- (i) Qantas Airways Limited; or
- (j) a company that is a subsidiary of Qantas Airways Limited;

After subsection 3(4)

Insert:

- (4A) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Audit Act 1901

Subsection 48A(1) (definition of *eligible incorporated company*)

Add at the end:

other than:

- (a) Qantas Airways Limited; or
-

- (b) a company that is a subsidiary of Qantas Airways Limited

Australian Federal Police Act 1979

Subsection 4(1) (subparagraph (b)(ii) of the definition of authority of the Commonwealth)

After “company”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Section 4

Add at the end:

- (3) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Australian Heritage Commission Act 1975

Subsection 3(1) (definition of authority of the Commonwealth)

Omit “include the Commission or a court”, substitute:

include:

- (c) the Commission; or
- (d) a court; or
- (e) Qantas Airways Limited

Australian Protective Service Act 1987

Subsection 6(5) (subparagraph (a)(ii) of the definition of authority)

After “incorporated company”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Section 6

Add at the end:

Schedule

Part 1 Interim amendments to be made on or after the substantial minority sale day

- (6) For the purposes of this section, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Civil Aviation Act 1988

Subsection 3(1) (paragraph (f) of the definition of *authority of the Commonwealth*)

Add at the end “, other than Qantas Airways Limited”.

Crimes (Aviation) Act 1991

Section 3 (definition of *Commonwealth authority*)

Add at the end “or a company that is a subsidiary of that company”

Section 3

Add at the end:

- (2) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Crimes (Superannuation Benefits) Act 1989

Section 2 (paragraph (b) of the definition of *Commonwealth authority*)

After “body corporate” (first occurring), insert “(other than Qantas Airways Limited or a subsidiary of that company)”.

Section 2

Add at the end:

- (2) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.
-

Director of Public Prosecutions Act 1983**Subsection 3(1) (paragraph (b) of the definition of *authority of the Commonwealth*)**

After “company”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Section 3

Add at the end:

- (5) For the purposes of this section, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Environment Protection (Impact of Proposals) Act 1974**Section 3 (definition of *authority of Australia*)**

After “company”, insert “(other than Qantas Airways Limited)”.

Federal Airports Corporation Act 1986**Subsection 3(1) (paragraph (g) of the definition of *authority of the Commonwealth*)**

Add at the end “, other than Qantas Airways Limited”.

Freedom of Information Act 1982**Subsection 4(1) (paragraph (b) of the definition of *prescribed authority*)**

After “body” (first occurring), insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Section 4

Add at the end:

Schedule

Part 1 Interim amendments to be made on or after the substantial minority sale day

- (10) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Naval Defence Act 1910

Section 40 (definition of *Commonwealth authority*)

After “company” (first occurring), insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Section 40

Add at the end:

- (2) For the purposes of this Part, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Ombudsman Act 1976

Subsection 3(1) (paragraph (b) of the definition of *prescribed authority*)

After “other body”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

After subsection 3(6)

Insert:

- (6AA) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Prices Surveillance Act 1983**Subsection 3(1) (paragraph (c) of the definition of
Commonwealth authority)**

After “incorporated company”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

After subsection 3(3)

Insert:

- (3A) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Public Accounts Committee Act 1951**Paragraph 8(3)(c)**

Add at the end:

other than:

- (i) Qantas Airways Limited; or
- (ii) a company that is a subsidiary of Qantas Airways Limited

After subsection 8(5)

Insert:

- (5A) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Public Works Committee Act 1969**Paragraph 6A(2)(ba)**

Omit “or”.

Schedule

Part 1 Interim amendments to be made on or after the substantial minority sale day

After paragraph 6A(2)(ba)

Insert:

- (bb) Qantas Airways Limited;
 - (bc) A company that is a subsidiary of Qantas Airways Limited;
- or

Section 6A

Add at the end:

- (4) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Radiocommunications Act 1983

Subsection 3(1) (paragraph (b) of the definition of *authority of the Commonwealth*)

After “other corporation”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”

After subsection 3(6)

Insert:

- (6A) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Resource Assessment Commission Act 1989

Section 3 (paragraph (b) of the definition of *Commonwealth authority*)

After “body corporate”, insert “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Section 3

Add at the end:

- (2) For the purposes of this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Schedule

Part 2 Permanent amendments to be made on or after the substantial minority sale day

Part 2—Permanent amendments to be made on or after the substantial minority sale day

The following Acts are amended as set out below:

Administrative Decisions (Judicial Review) Act 1977

After subsection 3(8)

Insert:

- (8A) For the purposes of a Schedule to this Act, the question whether a body corporate is a subsidiary of another body corporate is to be determined in the same manner as that question is determined under the Corporations Law.

Schedule 1

Add at the end:

- ; (s) decisions under an enactment of Qantas Airways Limited or a company that is a subsidiary of that company.

Schedule 2 (Paragraph (k))

Omit “Australian National Airlines Commission”.

Australian Airlines (Conversion to Public Company) Act 1988

Section 5 (definition of *group company*)

Omit the definition, substitute:

group company means:

- (a) the transferring body; or
(b) a wholly-owned subsidiary of the transferring body;

Section 5 (definitions of *operate, protected body, protected business name, protected company name, protected name, protection time and registered*)

Omit the definitions.

Sections 8, 12, 13 and 14

Repeal the sections.

Subsection 19(1)

Omit the subsection.

Part V

Repeal the Part.

Sections 61 and 63

Repeal the sections.

Australian Heritage Commission Act 1975

Subsection 3(1) (paragraph (b) of the definition of *authority of the Commonwealth*)

Omit “(other than Australian Airlines Limited)”.

Civil Aviation (Carriers’ Liability) Act 1959

Section 5 (definitions of *Australian Airlines*)

Omit the definition.

Subsection 27(2)

Omit the definition.

Crimes (Currency) Act 1981

Subsection 23(2) (paragraph (b) of the definition of *Australian aircraft*)

Omit “(including Qantas Airways Limited)”.

Schedule

Part 2 Permanent amendments to be made on or after the substantial minority sale day

Crimes (Hostages) Act 1989

Subsection 3(1) (paragraph (b) of the definition of *Australian aircraft*)

Omit “(including Qantas Airways Limited)”.

Crimes (Internationally Protected Persons) Act 1976

Subsection 3(1) (paragraph (b) of the definition of *Australian aircraft*)

Omit “(including Qantas Airways Limited)”.

Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990

Section 3 (paragraph (b) of the definition of *Australian aircraft*)

Omit “(including Qantas Airways Limited)”.

Nuclear Non-Proliferation (Safeguards) Act 1987

Subsection 4(1) (paragraph (b) of the definition of *Australian aircraft*)

Omit “, Qantas Airways Limited”.

South Pacific Nuclear Free Zone Treaty Act 1986

Subsection 4(1) (paragraph (b) of the definition of *Australian aircraft*)

Omit “, Qantas Airways Limited”.

Part 4—Permanent amendments to be made on or after 50% sale day

The following Acts are amended as set out below:

Australian Airlines (Conversion to Public Company) Act 1988

Section 33

Repeal the section.

Industrial Relations Act 1988

Subparagraphs 5(3)(c)(i) and (ii)

Omit the subparagraphs.

Superannuation Act 1990

Section 3 (paragraph (a) of the definition of *approved authority*)

After “an authority or body”, insert “(other than Australian Airlines Limited)”.

Schedule

Part 5 Amendments to be made on or after 100% sale day reversing amendments made by Part 1 of the Schedule

**Part 5—Amendments to be made on or after 100%
sale day reversing amendments made by
Part 1 of the Schedule**

The following Acts are amended as set out below:

Archives Act 1983

Subsection 3(1) (paragraph (g) of the definition of *authority of the Commonwealth*)

Add at the end “or”.

Subsection 3(1) (paragraphs (i) and (j) of the definition of *authority of the Commonwealth*)

Omit the paragraphs.

Subsection 3(4)

Omit the paragraphs.

Audit Act 1901

Subsection 48A(1) (definition of *eligible incorporated company*)

Omit:

other than:

- (a) Qantas Airways Limited; or
- (b) a company that is a subsidiary of Qantas Airways Limited

Australian Federal Police Act 1979

Subsection 4(1) (subparagraph (b)(ii) of the definition of *authority of the Commonwealth*)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 4(3)

Omit the subsection.

Australian Heritage Commission Act 1975

Subsection 3(1) (definition of *authority of the Commonwealth*)

Omit all the words after “but does not”, substitute “include the Commission or a court”.

Australian Protective Service Act 1987

Subsection 6(5) (subparagraph (a)(ii) of the definition of *authority*)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 6(6)

Omit the subsection.

Civil Aviation Act 1988

Subsection 3(1) (paragraph (f) of the definition of *authority of the Commonwealth*)

Omit “, other than Qantas Airways Limited”.

Subsection 3(2)

Omit the subsection.

Crimes (Superannuation Benefits) Act 1989

Subsection 2(1) (paragraph (b) of the definition of *Commonwealth authority*)

Omit “(other than Qantas Airways Limited or a subsidiary of that company)”.

Schedule

Part 5 Amendments to be made on or after 100% sale day reversing amendments made by Part 1 of the Schedule

Subsection 2(2)

Omit the subsection.

Director of Public Prosecutions Act 1983

**Subsection 3(1) (paragraph (b) of the definition of
Commonwealth authority)**

Omit “(other than Qantas Airways Limited or a subsidiary of that company)”.

Subsection 3(5)

Omit the subsection

Environment Protection (Impact of Proposals) Act 1974

Section 3 (definition of *authority of Australia*)

Omit “(other than Qantas Airways Limited)”.

Federal Airports Corporation Act 1986

Subsection 3(1) (paragraph (g) of the definition of *authority of the Commonwealth*)

Omit “, other than Qantas Airways Limited”.

Freedom of Information Act 1982

Subsection 4(1) (paragraph (b) of the definition of *prescribed authority*)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 4(10)

Omit the subsection.

Naval Defence Act 1910

Section 40 (definition of *Commonwealth authority*)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 40(2)

Omit the subsection.

Ombudsman Act 1976

Subsection 3(1) (paragraph (b) of the definition of *prescribed authority*)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 3(6AA)

Omit the subsection.

Prices Surveillance Act 1983

Subsection 3(1) (paragraph (c) of the definition of *Commonwealth authority*)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 3(3A)

Omit the subsection.

Public Accounts Committee Act 1951

Paragraph 8(3)(c)

Omit:

other than:

- (i) Qantas Airways Limited; or

Schedule

Part 5 Amendments to be made on or after 100% sale day reversing amendments made by Part 1 of the Schedule

- (ii) a company that is a subsidiary of Qantas Airways Limited

Public Works Committee Act 1969

Paragraph 6A(2)(ba)

Add at the end “or”.

Paragraphs 6A(2)(bb) and (bc)

Omit the paragraphs.

Subsection 6A(4)

Omit the subsection.

Resource Assessment Commission Act 1989

Subsection 3(1) (paragraph (b) of the definition of Commonwealth authority)

Omit “(other than Qantas Airways Limited or a company that is a subsidiary of that company)”.

Subsection 3(2)

Omit the subsection

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

Endnotes

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Qantas Sale Act 1992	196, 1992	21 Dec 1992	s 22, 23, 26, 27, 29, 32-34, 42, 45-49, and Sch (Part 4): 30 July 1995 (s 2(2) and gaz 1995 No S324) s 25 and Sch (Parts 3, 6, 7): never commenced (s 2(5, 6)) s 30, 31, 35, 37, 39, 43, 50 and Sch (Parts 1, 2): 10 Mar 1993 (s 2(2), (3)(a) and gaz 1993, No GN17) s 36, 38, 44, 51 and Sch (Part 5): 30 Aug 1995 (s 2(2) and gaz 1995 No S324) Remainder: 21 Dec 1992 (s 2(1))	—
Qantas Sale Amendment Act 1993	60, 1993	3 Nov 1993	10 Mar 1993 (s 2)	—
Transport and Communications Legislation Amendment Act (No. 2) 1993	5, 1994	18 Jan 1994	Sch (item 70): 18 Jan 1994 (s 2(1))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Qantas Sale Amendment Act 1994	168, 1994	16 Dec 1994	Schedule (items 1-6, 12, 17): 16 Dec 1994 (s 2(1)) Schedule (items 7-9, 13-16, 18): 30 July 1995 (s 2(2)-(4), (7), (8)) Schedule (items 10, 11): never commenced (s 2(5), (6)) Schedule (item 19, 20): 30 Aug 1995 (s 2(9))	—
Qantas Sale Amendment Act 1995	44, 1995	15 June 1995	15 June 1995 (s 2)	—
Superannuation Legislation Amendment Act (No. 1) 1995	54, 1995	23 June 1995	Schedule 8: 23 June 1995 (s 2(1))	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (item 1143): 1 Jan 1998 (s 2(2))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 755-759): 5 Dec 1999 (s 2(1) and (2))	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 5 (items 26 and 27): 13 Mar 2000 (s 2(2)(b) and gaz 2000, No S114)	—
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	s 4-14 and Sch 3 (items 444-457): 15 July 2001 (s 2(1) and (3))	s 4-14
Australian Citizenship (Transitionals and Consequentials) Act 2007	21, 2007	15 Mar 2007	Sch 1 (item 40): 1 July 2007 (s 2(1))	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	am No 60, 1993; No 168, 1994
s 3.....	am No 168, 1994; No 55, 2001
Part 3	
s 7.....	am No 168, 1994; No 44, 1995; No 156, 1999; No 55, 2001; No 21, 2007
s 8.....	am No 55, 2001
s 9.....	am No 156, 1999; No 55, 2001
s 11.....	am No 146, 1999
s 13.....	am No 55, 2001
Part 4	
Division 3	
s 20.....	am No 146, 1999
s 21.....	am No 55, 2001
Part 6	
s 25.....	rep No 196, 1992
Part 7	
s 26.....	am No 168, 1994
s 27.....	am No 168, 1994
s 31.....	am No 146, 1999
s 32.....	am No 168, 1994
s 34.....	am No 54, 1995
Part 8	
s 35.....	rep No 196, 1992
s 37.....	am No 60, 1993 rep No 196, 1992
s 40.....	am No 146, 1999; No 55, 2001
s 43.....	rep No 196, 1992

Endnote 4—Amendment history

Provision affected	How affected
s 44.....	rep No 152, 1997
s 45.....	am No 168, 1994
s 48.....	am No 168, 1994
s 50.....	rep No 196, 1992
Schedule.....	am No. 196, 1992; No 5, 1994; No 168, 1994
