

AUSTRALIAN NATIONAL AIRLINES.

No. 31 of 1945.

An Act to provide for the Establishment and Operation of National Airline Services by the Commonwealth and for other purposes.

[Assented to 16th August, 1945.]

WHEREAS, in order to ensure, amongst other things, that— Preamble

- (a) trade and commerce with other countries and among the States are fostered and encouraged to the greatest possible extent;
- (b) the maintenance and development of the Defence Force of the Commonwealth in relation to the defence of Australia by air and the establishment of plant and equipment necessary for that Force are assured;
- (c) the development of the Territories is promoted with the utmost expedition; and
- (d) the carriage of mail by air within Australia is promoted to meet the needs of the people of Australia,

it is expedient to provide for the matters hereinafter set out :

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Australian National Airlines Act* Short title. 1945.

- Commencement. 2. This Act shall come into operation on a date to be fixed by Proclamation.
- Parts. 3. This Act is divided into Parts as follows :—
- Part I.—Preliminary.
 - Part II.—The National Airline Services.
 - Division 1.—Establishment and Constitution of the Australian National Airlines Commission.
 - Division 2.—Powers, Functions and Duties of the Commission.
 - Division 3.—Finances of the Commission.
 - Division 4.—Reports.
 - Part III.—Compulsory Acquisition of Aircraft and other Property.
 - Part IV.—Limitations in respect of Airline Services.
 - Part V.—Compensation.
 - Part VI.—Penalties and Procedure.
 - Part VII.—Miscellaneous.
- Definitions. 4. In this Act, unless the contrary intention appears—
- “ Acting Commissioner ” means a person appointed to perform the functions of a Commissioner during the illness or absence of a Commissioner ;
 - “ adequate airline service ” means—
 - (a) an interstate airline service which is adequate to meet the needs of the public for interstate transport by air between scheduled stopping places of the service ; or
 - (b) a Territorial airline service which is adequate to meet the needs of the public for transport by air between scheduled stopping places of the service of which at least one is within a Territory of the Commonwealth ;
 - “ airline licence ” means an air-line licence under the Air Navigation Regulations ;
 - “ Air Navigation Regulations ” means the Air Navigation Regulations under the *Air Navigation Act* 1920–1936 or those regulations as amended from time to time, and includes any regulations in substitution for those regulations ;
 - “ air service ” means a service established or conducted by the Commission for the transport by air of passengers or goods ;
 - “ Australia ” includes the Territories of the Commonwealth ;
 - “ Chairman ” means Chairman of the Commission and includes a Commissioner or person appointed to act as Chairman ;
 - “ Commissioner ” means member of the Commission and includes an Acting Commissioner ;
 - “ contractor ”, in relation to an interstate airline service or a Territorial airline service, means a person with whom the Commission has entered into a contract in pursuance of section twenty-three of this Act to conduct that service ;

- “ goods ” includes merchandise and chattels of every description, and animals alive or dead ;
- “ interstate airline service ” means a service providing for the transport by air, for reward, of passengers or goods and operating from one place in Australia to another place in Australia and having scheduled stopping places in two or more States ;
- “ owner ” in relation to goods, includes any consignor, consignee, shipper or agent for sale or custody of the goods ;
- “ scheduled stopping places ”, in relation to any airline service, means the terminal and scheduled intermediate stops specified in the conditions of any airline licence issued in respect of the service and includes such other stopping places as are prescribed ;
- “ Territorial airline service ” means a service (not being an interstate airline service) providing for the transport by air, for reward, of passengers or goods and having a scheduled stopping place in a Territory of the Commonwealth ;
- “ the Commission ” means the Australian National Airlines Commission established under this Act ;
- “ the licensing authority ” means the authority having power to issue an airline licence ;
- “ this Act ” includes the regulations and by-laws made under this Act.

5. This Act shall extend to all Territories of the Commonwealth.

Extension of
Act to
Territories.

PART II.—THE NATIONAL AIRLINE SERVICES.

Division 1.—Establishment and Constitution of the Australian National Airlines Commission.

6.—(1.) For the purposes of this Act, there shall be a Commission to be known as the Australian National Airlines Commission which, for those purposes and subject to the provisions of this Act, shall have and may exercise the rights, powers, authorities and functions conferred, and shall be charged with and perform the duties and obligations imposed, upon it by this Act.

Australian
National
Airlines
Commission.

(2.) The Commission shall be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document or notice and shall presume that it was duly affixed.

(4.) The Head Office of the Commission shall be established at such place as the Minister, on the recommendation of the Commission, appoints.

7.—(1.) The Commission shall consist of five Commissioners.

(2.) One of the Commissioners shall be appointed to be Chairman and one shall be appointed to be Vice-Chairman of the Commission.

(3.) The Commissioners shall be appointed by the Governor-General.

Composition of
Commission.

Term of
office of
Commissioners.

8.—(1.) Subject to this Act, the period for which the Commissioners first appointed under this Act shall hold office shall be, in the case of the Chairman, five years, in the case of the Vice-Chairman, four years, and in the case of the remaining Commissioners, four years, three years and two years respectively.

(2.) After the appointment of the five Commissioners first appointed under this Act, each further appointment shall be for a period of three years.

(3.) In the event of a Commissioner ceasing to hold office prior to the termination of the period of his appointment, another Commissioner may be appointed in his place for the remainder of that period.

(4.) Each person who is appointed a Commissioner shall, upon the expiration of the term for which he was appointed, be eligible for re-appointment.

Remuneration
of
Commissioners.

9.—(1.) The remuneration of the Commissioners shall be—

- (a) in the case of the Chairman—at such rate per annum as the Governor-General approves ;
- (b) in the case of the Vice-Chairman—at the rate of Five hundred pounds per annum ; and
- (c) in the case of each other Commissioner—at the rate of Four hundred pounds per annum.

(2.) The Commissioners shall receive travelling and other allowances at such rates as the Governor-General determines.

Absence of
Chairman.

10.—(1.) In case of the absence (whether through illness or otherwise) of the Chairman, the Vice-Chairman, if present, shall act as Chairman.

(2.) In case of the absence (whether through illness or otherwise) of both the Chairman and the Vice-Chairman, the Commissioners present may appoint one of their number to act as Chairman :

Provided that the Governor-General may, if he thinks fit, appoint a person to act as Chairman for such period as the Governor-General specifies.

(3.) If the Governor-General appoints a person to act as Chairman, the appointment shall be at such remuneration as is determined by the Governor-General, not exceeding the remuneration fixed, in the case of the Chairman, in pursuance of section nine of this Act.

Illness or
absence of
Commissioners.

11.—(1.) In case of the absence (whether through illness or otherwise) of any other Commissioner, the Governor-General may, if he thinks fit, appoint a person to perform the functions of the Commissioner during that absence.

(2.) The remuneration of any person so appointed shall be determined by the Governor-General, but shall not exceed the remuneration fixed by paragraph (c) of sub-section (1.) of section nine of this Act.

Determination
of conditions
of leave of
absence of
Commissioners.

12. The Governor-General may grant leave of absence to any Commissioner upon such conditions as to remuneration or otherwise as the Governor-General thinks fit.

13. The Governor-General may terminate the appointment of a Commissioner or an Acting Commissioner for inability, inefficiency or misbehaviour.

Dismissal of a
Commissioner
or Acting
Commissioner.

14.—(1.) A Commissioner shall be deemed to have vacated his office—

Vacation of
office.

- (a) if his appointment is terminated by the Governor-General in pursuance of this Act ;
- (b) if he becomes bankrupt or compounds with his creditors or makes any assignment of his remuneration for their benefit or takes advantage of any provision of any Act relating to bankruptcy ;
- (c) if he becomes of unsound mind ;
- (d) if he resigns his office by writing under his hand addressed to the Governor-General and the resignation is accepted by the Governor-General ;
- (e) if he absents himself (except with leave granted by the Governor-General) from three consecutive meetings of the Commission ; or
- (f) if he, in any way, otherwise than as a member, and in common with the other members, of an incorporated company consisting of more than twenty-five persons—
 - (i) becomes concerned or interested in any contract or agreement entered into by or on behalf of the Commission ; or
 - (ii) participates, or claims to participate, in the profit of any such contract or agreement or in any benefit or emolument arising from the contract or agreement.

(2.) A Commissioner shall not be deemed—

- (a) to become concerned or interested in any contract or agreement specified in paragraph (f) of the last preceding sub-section ; or
- (b) to participate, or claim to participate, in the profit of, or in any benefit or emolument arising from, any such contract or agreement,

by reason only of his entering into, or obtaining any benefit arising from, a contract or agreement between the Commission and himself for the transport, by the Commission, of himself or any other person or of any goods.

15.—(1.) The Commission shall hold such meetings as, in the opinion of the Chairman or at least three other Commissioners, are necessary for the efficient conduct of its affairs.

Meetings of
Commission.

(2.) At meetings of the Commission three Commissioners shall form a quorum, and the Chairman shall have a deliberative vote, and, in the event of an equality of votes, a second or casting vote.

(3.) Any question arising at any meeting of the Commission shall be determined by a majority of the votes of the Commissioners present.

(4.) The general manager shall, as far as practicable, attend all meetings of the Commission :

Provided that, if the Commission so directs, he shall temporarily retire from any meeting.

Delegation of powers by Commission.

16.—(1.) The Commission may in relation to any particular matters or class of matters or to any particular part of Australia, by writing under its seal, delegate to any officer or employee or other prescribed person all or any of its powers under this Act (except this power of delegation), so that the delegated powers may be exercised by him with respect to the matters or class of matters or the part of Australia specified in the instrument of delegation.

(2.) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Commission.

Appointment of officers.

17.—(1.) The Commission shall appoint a general manager, who shall be the chief executive officer of the Commission, and it may appoint such other officers as it thinks necessary.

(2.) The officers of the Commission shall constitute the Service of the Commission.

(3.) A person shall not be admitted to the Service of the Commission unless—

- (a) he is a natural-born or naturalized British subject ;
- (b) the Commission is satisfied, upon such medical examination as is prescribed, as to his health and physical fitness ; and
- (c) he makes and subscribes an oath or affirmation of allegiance in accordance with the prescribed form,

and shall not be appointed to a clerical office in that Service unless he has in open competition successfully passed the prescribed entrance examination :

Provided that the Commission may appoint, to such positions or positions of such classes as are prescribed, persons who do not possess all the qualifications specified in this sub-section.

(4.) Appointments to positions which are open only to persons who have passed the prescribed entrance examination shall be made in order of merit of their passing that examination.

(5.) Adequate notice and particulars of the prescribed entrance examination shall be given by the Commission, to the public, by advertisement in the *Gazette* and daily newspapers.

(6.) The rate of salary payable to the general manager shall be subject to the approval of the Governor-General.

(7.) The rate of salary payable to any other officer shall, if it exceeds the rate of Fifteen hundred pounds per annum, be subject to the approval of the Minister.

(8.) Officers appointed by the Commission shall, subject to this section, be subject to such terms and conditions of employment (including conditions with respect to punishment for breaches of discipline) as are determined by the Commission.

(9.) Where an officer appointed in pursuance of this section was, immediately prior to his appointment, an officer of the Public Service of the Commonwealth, his service as an officer of the Commission shall, for the purpose of determining his existing and accruing rights, be taken into account as if it were service in the Public Service of the Commonwealth and the *Officers' Rights Declaration Act 1928-1940* shall apply as if this Act and this section had been specified in the Schedule to that Act.

18. The Commission may appoint such temporary or casual employees as it thinks fit, on such terms and conditions as the Commission determines.

Temporary and casual employees.

Division 2.—Powers, Functions and Duties of the Commission.

19.—(1.) For the purposes of this Act and subject to the provisions of this Act and of the Air Navigation Regulations and with full regard to safety, efficiency and economy of operation the Commission may do all that is necessary or convenient to be done for, or as incidental to, in relation to, or in connexion with, the establishment, maintenance or operation by the Commission of airline services for the transport, for reward, of passengers and goods by air—

General functions and duties of Commission.

- (a) between any place in a State and any place in another State ;
- (b) between any place in any Territory of the Commonwealth and any place in Australia outside that Territory ; and
- (c) between any place in any Territory of the Commonwealth and any other place in that Territory.

(2.) It shall be the duty of the Commission to exercise the powers conferred by the last preceding sub-section, as fully and adequately as may be necessary to satisfy the need for the services specified in that sub-section, and to carry out the purposes of this Act.

(2.) The Commission, with the approval of the Minister, shall have, and may exercise in relation to airline services between any place in Australia and any place outside Australia, the like powers as it has in relation to airline services specified in sub-section (1.) of this section.

20. The Commission may, in the conduct of any air service, transport by air all such passengers and goods as are offered for that purpose, and may demand such fares and charges and impose such conditions in respect of that transport as are determined in accordance with the provisions of the relevant airline licences issued to the Commission.

Commission may demand fares, &c.

21.—(1.) Subject to this Act, the Commission may—

- (a) acquire by lease or purchase any land, buildings, easements or other property (whether real or personal), rights or privileges which it thinks necessary for the purposes of this Act ; and
- (b) exchange, lease, dispose of, turn to account or otherwise deal with, any property, rights or privileges of the Commission.

Power to purchase and dispose of assets.

(2.) The Commission shall not, without the approval of the Minister—

- (a) acquire by purchase any land the cost of acquisition of which exceeds the sum of Five thousand pounds ;
- (b) enter into any lease of land for a period exceeding five years ;
or
- (c) in any manner dispose of any property, right or privilege having an original or book value exceeding the sum of Five thousand pounds.

(3.) The Commission shall not, without the consent of the Minister, enter into any contract in any case where the contract is for the supply, either directly or indirectly, from places outside Australia, of aircraft, equipment or materials of a greater value than Ten thousand pounds.

Contracts for transport of mails.

22. The Commission may enter into any agreement or contract with the Minister on behalf of the Commonwealth for the transport of mails by air.

General contractual powers of Commission.

23. Subject to this Act, the Commission may contract for the execution of any work or service authorized by this or any other Act to be executed by the Commission, in such manner, upon such terms, for such sums, and under such stipulations, conditions, and restrictions as the Commission thinks proper.

Commission to be common carrier.

24. For the purposes of this Act the Commission shall be deemed to be a common carrier of passengers and goods and (except as by this Act otherwise provided) shall be subject to the obligations and entitled to the privileges of common carriers of passengers and goods.

Alterations made by direction of Minister.

25.—(1.) The Minister may, if he is satisfied that it is in the interests of the development of Australia so to do, direct the Commission to establish, alter or continue to maintain any interstate airline service or Territorial airline service specified by the Minister.

(2.) If, at the direction of the Minister, the Commission establishes, alters or continues to maintain an airline service and satisfies the Minister that the airline service so established, altered or continued to be maintained has been operated at a loss in any financial year and if, after due provision is made for reserves, a loss results in that financial year from the whole of the operations of the Commission, the Commission shall be entitled to be reimbursed by the Commonwealth to the extent of the first-mentioned loss or to the extent of the second-mentioned loss, whichever is the less.

Contracts by the Commission—how made.

26.—(1.) Any contract which, if made between private persons, would by law be required to be in writing and under seal, may be made by the Commission in writing in its corporate name under its common seal, and may be varied or discharged in the same manner.

(2.) Any contract which, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with the contract, may be made by the Commission in writing in its corporate name, and may be varied or discharged in the same manner.

(3.) Every contract made according to the provisions contained in this section and duly executed by the parties to the contract respectively shall be effectual in law and shall be binding upon the Commission and all other parties to the contract, their successors, heirs, executors and administrators.

27. The Commission may compound and agree with any person with whom any contract has been entered into by the Commission in pursuance of, or under the authority of, this Act, or against whom any action or suit is brought for any penalty contained in the contract, or in any bond or other security for the performance of the contract, or for or on account of any breach or non-performance of the contract, bond or security, for such sum of money or other consideration as the Commission thinks proper.

Commission may compound for breach of contract.

28. Nothing in this Act shall be construed to confer on the Commission any powers which, for the time being, are exercisable under the Air Navigation Regulations by the Minister or any other authority.

Limitation of powers.

29. The provisions of the Air Navigation Regulations shall, so far as applicable, apply to and in relation to the Commission in like manner as they apply to and in relation to other persons.

Application of Air Navigation Regulations.

Division 3.—Finances of the Commission.

30. For the purposes of enabling the Commission to meet such expenditure as is necessary for the purposes of this Act, the Treasurer may advance to the Commission—

Advance for expenses.

(a) out of the Consolidated Revenue Fund or out of the proceeds of any loan raised under the authority of any Act, which Fund and which proceeds are hereby appropriated accordingly, such amounts, not exceeding in all the sum of Three million pounds; and

(b) out of such sums as are from time to time appropriated by the Parliament for the purpose, such further amounts,

as are, in the opinion of the Minister, required by the Commission, and the Commission may accept those advances but shall not otherwise borrow moneys.

31. The terms and conditions of any advances made by the Treasurer to the Commission, including the security and basis of re-payment, shall be as determined by the Treasurer.

Terms and conditions of advances.

32. The Commission shall prepare estimates, in such form as the Minister directs, of its receipts and expenditure for each financial year and shall submit those estimates to the Minister.

Commission to prepare annual estimates.

Moneys
uninvested
may be lodged
in Bank.

33. Moneys held by the Commission which are uninvested may be lodged either in an account at call or on fixed deposit, or partly in an account at call and partly on fixed deposit, with the Commonwealth Bank of Australia or with such other bank as the Minister approves, and while so lodged shall be held to be moneys of the Crown.

Application of
moneys.

34. Subject to this Act, the moneys of the Commission may be applied as follows :—

- (a) In payment of the expenses and charges and in discharge of other obligations incurred or undertaken by the Commission in the exercise of its powers, duties and functions under this Act ;
- (b) In payment of the remuneration and allowances of the Commissioners and the salaries, wages and allowances of officers and employees of the Commission ; and
- (c) In investment in any securities of, or guaranteed by, the Government of the Commonwealth.

Accounts.

35. The Commission shall keep its accounts in such form as is approved by the Treasurer.

Audit.

36.—(1.) The accounts of the Commission shall be subject to inspection and audit, at least once yearly, by the Auditor-General for the Commonwealth.

(2.) The Auditor-General shall report to the Minister the result of each inspection and audit.

Liability of
Commission to
pay rates,
taxes and
charges.

37. The Commission shall pay all rates, taxes and charges (other than income tax) imposed by or under any law of the Commonwealth and such other rates, taxes or charges as the Minister specifies.

Reserves.

38.—(1.) The Commission may, with the approval of the Treasurer, set aside, out of its revenue, such sums as it thinks proper as reserves for depreciation of assets, insurance or other purposes.

(2.) Any sums so set aside shall, until required for the purposes of any reserve, be invested by the Commission in any securities of, or guaranteed by, the Government of the Commonwealth.

Application of
profits of
Commission.

39. Subject to the last preceding section, any profits derived from the operations of the Commission shall be applied—

- (a) firstly, in payment of interest charged on moneys advanced to the Commission by the Treasurer under this Act ;
- (b) secondly, in payment of such amounts as the Treasurer determines in accordance with section thirty-one of this Act towards re-payment of the advances so made ;
- (c) thirdly, with the approval of the Minister given with the concurrence of the Treasurer, in the establishment and development of airline services or in making such payments as are necessary for the purposes of the Commission ; and
- (d) fourthly, in such manner as the Minister, with the concurrence of the Treasurer, directs.

Division 4.—Reports.

40.—(1.) The Commission shall, as soon as possible after the close of each financial year, submit to the Minister an annual report with respect to the operations of the Commission and financial accounts, in respect of that year, in such form as the Treasurer approves.

Annual report
by Commission.

(2.) The annual report and financial accounts, accompanied by a certificate of the Auditor-General, shall be laid before both Houses of the Parliament within fifteen sitting days after their receipt by the Minister.

41. The Commission shall furnish all such reports, documents, and information relating to the operations of the Commission as the Minister requires.

Further reports
to Minister.

PART III.—COMPULSORY ACQUISITION OF AIRCRAFT AND OTHER PROPERTY.

42. The Commission may for the purposes of this Act, by notice served on the owner or published in the *Gazette*, acquire any aircraft or other property (not being land) required for the purposes of the Commission.

Power to
acquire.

43. Upon the service of the notice on the owner or the publication of the notice in the *Gazette* the aircraft or property described in the notice shall, by force of this Act—

Property to
vest in
Commission.

- (a) become the absolute property of the Commission ; and
- (b) be freed and discharged from all trusts, obligations, interests, contracts, charges, liens and pledges affecting the aircraft or property,

and the rights and interests of every person in the aircraft or other property (including any rights or interests arising in respect of any moneys advanced in respect of the aircraft or property) shall thereupon be converted into claims for compensation, which may be made and shall be dealt with in accordance with the provisions of this Act.

44. Where any property is acquired under section forty-two of this Act, the person from whom the property is acquired, and every person in whose possession or custody or under whose control the property may be, shall deliver up the property in accordance with the terms of the notice by which the acquisition is made.

Duty of owner
to deliver up
possession of
property
acquired.

Penalty : One hundred pounds or imprisonment for six months, or both.

45. For the purpose of enabling the Commission to exercise the power conferred by section forty-two of this Act and for facilitating that exercise, the Commission and any person thereto authorized by the Commission shall have such powers as are prescribed.

Power to
require the
doing of acts,
&c., to facilitate
acquisition of
property.

PART IV.—LIMITATIONS IN RESPECT OF AIRLINE SERVICES.

46.—(1.) Where an airline licence is issued to the Commission in respect of an interstate airline service and the Commission has established that service, any airline licence held by any person, other

Airline
licences to be
inoperative
in certain
circumstances.

than the Commission or a contractor, in respect of any interstate airline service which provides interstate transport by air between any of the scheduled stopping places of the service established by the Commission, shall, by virtue of this section (unless it has been issued in respect of a section of an international airline service authorized by the Commonwealth), and insofar as it authorizes interstate transport by air between any of those stopping places of passengers or goods embarked or loaded for transport solely between those stopping places, be inoperative so long as there is an adequate airline service between those stopping places by reason only of the services operated by the Commission and the services operated by contractors.

(2.) Where an airline licence is issued to the Commission in respect of a Territorial airline service and the Commission has established that service, any airline licence held by any person, other than the Commission or a contractor, in respect of any airline service which provides transport by air between any of the scheduled stopping places of the service established by the Commission, not being places in a State, shall, by virtue of this section (unless it has been issued in respect of a section of an international airline service authorized by the Commonwealth) and insofar as it authorizes transport by air between any of those stopping places of passengers or goods embarked or loaded for transport solely between those stopping places, be inoperative so long as there is an adequate airline service between those stopping places by reason only of the services operated by the Commission and the services operated by contractors.

47. The licensing authority shall not issue to any person, other than the Commission or a contractor to whom the Commission has requested the licensing authority to issue the licence—

(a) in respect of an interstate airline service (not being a section of an international airline service authorized by the Commonwealth)—an airline licence which would authorize interstate transport by air between any scheduled stopping places of any airline service operated by the Commission or any contractor; or

(b) in respect of a Territorial airline service (not being a section of an international airline service authorized by the Commonwealth)—an airline licence which would authorize transport by air between any scheduled stopping places, not being places in a State, of any airline service operated by the Commission or any contractor,

unless, and except to the extent to which, the licensing authority is satisfied that, having regard to the airline services operated by the Commission and contractors, the issue of the licence is necessary to meet the needs of the public with respect to interstate airline services or Territorial airline services.

48. Where the Commission applies for an airline licence for an airline service it shall—

(a) publish in the *Gazette* and daily newspapers a notice of the fact; and

Limitation
with respect
to issue of
airline
licences.

Notice by
Commission
of proposal
to establish
airline service.

- (b) at least thirty days before establishing the service, publish in the *Gazette* and daily newspapers notice of the day on which the service is to be established.

49. A person shall not enter into a contract—

- (a) to transport by air for reward any person or goods ;
 (b) to be transported by air for reward ; or
 (c) to have any other person or any goods transported by air for reward,

Limitations
on power to
contract.

in the course of the operation of any prescribed interstate airline service or Territorial airline service operated by any person, other than a person holding an airline licence in respect of that service, not being a licence which is inoperative by virtue of section forty-six of this Act.

Penalty : Five hundred pounds.

PART V.—COMPENSATION.

50.—(1.) For the purposes of this Part there shall be a Compensation Board, consisting of a Chairman and two other persons, appointed by the Minister.

Compensation
Board.

(2.) The Compensation Board shall include—

- (a) a person who holds, or has held office as a Police, Stipendiary or Special Magistrate, who shall be the Chairman ; and
 (b) a qualified practising accountant.

(3.) The Minister may appoint one or more persons having specialized knowledge of the subject-matter of the claim to act as assessors to assist the Compensation Board.

(4.) At least one of the assessors appointed to assist the Board or, where only one assessor is appointed, that assessor, shall be a person who is not otherwise in the employ of the Commonwealth or an authority of the Commonwealth.

(5.) There may be paid to any member of the Compensation Board and to any assessor such remuneration (if any) for his services and such travelling allowances (if any) as the Minister directs.

(6.) Where, during or after the hearing of any claim, the Chairman, or either of the other members of the Compensation Board, is unable on account of death, illness or otherwise to proceed with the hearing or determination, the remaining members may continue with the hearing and determination, or the determination, as the case may be.

(7.) A member who has been absent during any part of the hearing of a claim shall not be eligible to take any further part in the hearing and determination of that claim.

(8.) If the Commission and the claimant consent, the Chairman of the Compensation Board may sit alone for the hearing of any claim, and in any such case the determination of the Chairman shall be of the same force and effect as if it were the determination of the Board.

51.—(1.) The Minister may appoint a person (including a member of the Board) to be the Deputy Chairman of the Compensation Board during any absence of the Chairman.

Deputies.

(2.) The Minister may appoint a person to be the Deputy of any member (other than the Chairman) of the Compensation Board during any absence of the member, or at any time when the member is acting as Deputy of the Chairman of the Board.

(3.) A person appointed under this section shall, while acting as Deputy, have all the powers and perform all the functions of the member of the Board for whom he is the Deputy, and any reference in this Act to a member of the Board shall be read as including a reference to the Deputy of a member so acting.

(4.) It shall not be necessary for a person appointed under this section to have any qualification possessed by the member of whom he is appointed to be the Deputy.

Claims for
compensation.

52.—(1.) Any person who suffers loss or damage by reason of any acquisition of property under Part III. of this Act or by reason of the application of section forty-six of this Act to an airline licence, shall, subject to this section, be paid such compensation as is determined by agreement between the Commission and the person concerned.

(2.) In the absence of any such agreement, the person suffering any such loss or damage may, within six months after the acquisition or application of section forty-six of this Act on which the claim is based or within such further period as the Commission allows, make a claim in writing to the Commission for compensation.

(3.) A claim for compensation under this section shall state—

- (a) the amount of compensation claimed ;
- (b) the nature of the interest on which the claim is founded ;
- (c) whether the claimant is aware of any, and if so what, interests in the property or airline licence vested in any other person ; and
- (d) the claimant's address for service of notices.

(4.) Where any person referred to in sub-section (2.) of this section has failed to make, within the period specified in that sub-section, a claim for compensation under this section, he may, notwithstanding the expiration of that period, apply to the High Court for leave to make a claim.

(5.) If the Court is satisfied that the failure to make a claim within that period was due to lack of knowledge of the acquisition or of the application of section forty-six of this Act to the airline licence or to a mistake or other reasonable cause, the Court may grant him leave to make a claim within such period as is specified by the Court.

(6.) An application to the Court for leave under this section may be made to and determined by a single judge of the Court, sitting as or for the Court or in chambers, and the powers, practice and procedure of the Court in the application shall be as nearly as may be in accordance with its powers, practice and procedure in interlocutory applications in civil actions or suits.

53.—(1.) Where a claim for compensation is made in pursuance of the last preceding section, the Commission shall, as soon as practicable, serve on the claimant either by post at the address given in the claim or personally, a notice stating—

Determination
of
compensation.

- (a) the amount of compensation which it considers reasonable ;
- or
- (b) that, in its opinion, the claimant is not entitled to any compensation,

as the case may be.

(2.) Where a notice in pursuance of paragraph (a) of the last preceding sub-section is served on the claimant, it shall be deemed to be an offer accepted by the claimant in full satisfaction of all claims for loss or damage suffered by reason of the acquisition or of the application of section forty-six of this Act to the airline licence, and the amount shall be payable to him by the Commission according to the tenor of the notification, unless, within one month or such further period as the Minister allows after receipt of the notice, he requests the Commission, by notice served either by post at the address given in the notice served on the claimant or personally, to refer the claim to the Compensation Board.

(3.) Where a notice in pursuance of paragraph (b) of sub-section (1.) of this section is served on the claimant, he shall be deemed to have abandoned his claim for compensation and shall not have any right of action in respect of the subject-matter of the claim, unless, within one month or such further period as the Minister allows after the receipt of the notice, he requests the Commission, by notice served either by post at the address given in the notice served on the claimant or personally, to refer the claim to the Compensation Board.

(4.) If a notice in pursuance of sub-section (1.) of this section is not served on the claimant within two months after he makes a claim under the last preceding section, the claimant may by notice served by post or personally request the Commission to refer the claim to the Compensation Board.

(5.) Where the Commission has been requested to refer a claim to the Compensation Board, the Commission shall as soon as practicable forward the claim to the Compensation Board, together with a notice stating the address at which notices may be served by the Board on the Commission.

54.—(1.) Where the Commission refers a claim to the Compensation Board, the Board shall assess the compensation, if any, which it thinks just, and shall, as soon as practicable, serve—

Assessment by
Compensation
Board.

- (a) on the Commission, by post at its address for service ; and
- (b) on the claimant, either personally, or by post at the address given in the claim, or at his last-known place of abode or business,

a notice stating the compensation so assessed.

(2.) Subject to the next succeeding section the compensation so notified shall be deemed to be accepted by the claimant in full satisfaction of all claims for loss or damage suffered by reason of the acquisition or the application of section forty-six of this Act out of which the claim arose, and shall become payable to him by the Commission according to the tenor of the notification.

Applications
for review.

55.—(1.) If either the Commission or the claimant is dissatisfied with the assessment of the Compensation Board, the Commission or the claimant may, within one month after receipt of the notice of the assessment of the Board, apply to the High Court for a review of the assessment.

(2.) An application under the last preceding sub-section shall be made in writing to the Principal Registrar or a Deputy Registrar of the Court, and shall be accompanied by a true copy of the application for endorsement and service.

(3.) Upon receipt of the application, the Principal Registrar or the Deputy Registrar shall appoint a time for the hearing of the application, and shall endorse on the true copy of the application the place and time of hearing and return it to the applicant.

(4.) The applicant shall, not less than one month before the day fixed for the hearing, serve on the other party (in this section referred to as "the respondent") in accordance with the practice of the Court relating to service of writs or summonses, the endorsed copy of the application.

(5.) Upon the day fixed the Court may, on proof of due service of the copy of the application, or if the respondent appears to contest the application, proceed to hear the application, and to determine whether any compensation is payable and, if so, the compensation which it thinks just, and may make an order for payment by the Commission of the compensation so determined.

(6.) The Court may, in any review under this section, award such costs as it thinks fit.

(7.) In any matter not provided for in this Part the powers, practice and procedure of the Court shall be as nearly as may be in accordance with the powers, practice and procedure of the Court in civil actions or suits.

Limitation of
compensation.

56. In determining the compensation (if any) payable under this Part in respect of loss or damage suffered by reason of the application of section forty-six of this Act to any airline licence, the Minister, the Compensation Board or the High Court shall not have regard to any matter arising, or which might have arisen, out of anything done or expected to be done in or in relation to any period after the date on which, but for the application of that section to the licence, it would (if not renewed) have expired by effluxion of time.

Interest on
Compensation.

57. In any case where compensation, or part of the compensation, has not been paid within three months after the loss or damage in respect of which the compensation is payable was suffered, the Commission may, if in its discretion it thinks fit, authorize the payment

of interest at such rate (not exceeding four per centum per annum) as it determines on the compensation or part of the compensation for the period commencing three months after that loss or damage was suffered and ending on the date of payment.

58. No action, other than an action for the recovery of compensation determined by agreement or in pursuance of this Part, shall be maintained against the Commonwealth or the Commission or any other person in respect of any acquisition of property under Part III. or the application of section forty-six of this Act to any airline licence.

Other rights of action barred.

59.—(1.) The Governor-General may make rules as to the conduct of the proceedings of the Compensation Board and, in particular, as to—

Rules.

- (a) the summoning and examination of witnesses and the production of books, documents and papers;
- (b) the administration of oaths and affirmations;
- (c) the protection of members of the Board and of witnesses summoned to attend or appearing before it;
- (d) the appearance or representation before the Board of the claimant and of the Commission; and
- (e) the fees payable to witnesses.

(2.) The *Acts Interpretation Act 1901–1941* shall apply to rules made under this section in like manner as it applies to regulations.

PART VI.—PENALTIES AND PROCEDURE.

60. If on demand any person fails to pay the fares or charges due to the Commission in respect of any service rendered by the Commission, the Commission—

Recovery of fares or charges.

- (a) may detain and sell all or any of the goods of the person which are in his possession, and out of the moneys arising from the sale retain the fares or charges so payable, and all charges and expenses of the detention, and shall render the surplus, if any, of the moneys arising by the sale and such of the goods as remain unsold, to the person entitled to that surplus; or
- (b) may recover the fares and charges in any court of competent jurisdiction.

61. If any person inflicts, through any act, neglect, or default whereby he has, on conviction, incurred any penalty imposed by this or any other Act, any damage upon any aircraft or other property vested in the Commission he shall be liable to pay that damage in addition to the penalty, and the amount of that damage shall be determined by the court by which he was convicted.

Damage to be made good in addition to penalty.

62.—(1.) Any officer, employee or agent of the Commission and any person called by him to his assistance may seize and detain any person who has committed any offence against the provisions of this Act and

Arrest of offenders

whose name and residence are unknown to the officer, employee or agent, and may, without any warrant or other authority than this Act, convey him with all convenient despatch before a court of summary jurisdiction.

(2.) The court may proceed with all convenient despatch to the hearing and determination of the complaint against the offender.

(3.) Notwithstanding anything contained in any other Act, any justice or justices of the peace of a State sitting at any place as a court for the summary punishment of offences under the law of the State shall, at that place, have jurisdiction to hear and determine the complaint against an offender who is seized and detained under this section and who cannot be brought before a Police, Stipendiary or Special Magistrate within seventy-two hours after he has been brought to that place for the purpose of the hearing and determination of the complaint, or, if he was seized at that place, within seventy-two hours after he was so seized.

Limitation of
actions against
the
Commission.

63. All actions against the Commission or against any person for or arising out of anything done or purporting to have been done under this Act, shall be commenced within six months after the act complained of was committed.

Notices of
occurrence
of cause of
action and
of intended
action.

64.—(1.) No action against the Commission or any person for or arising out of anything done, or purporting to have been done, by it under this Act—

(a) shall be maintainable unless, as soon as practicable after the occurrence of the cause of action, notice of the occurrence of the cause of action has been delivered to the Commission or the person or at the office of the Commission or the person by or on behalf of the person bringing the action; or

(b) shall be brought until one month, at least, after a notice in writing of the intended action has been delivered to the Commission or the person, or left at the office of the Commission or the person, by the party intending to commence the action, or by his attorney or agent:

Provided that the want of, or any defect or inaccuracy in, the notice specified in paragraph (a) of this sub-section shall not be a bar to the maintenance of an action if it is found that the Commission or person is not or would not, if a notice were then given and the hearing postponed, be prejudiced in its or his defence by the want of, or the defect or inaccuracy in, the notice, or that the want of, or defect or inaccuracy in, the notice was occasioned by mistake or other reasonable cause.

(2.) The notice of the intended action shall clearly and explicitly state the cause of action and the court in which it is intended to be brought, and upon the back of the notice shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the attorney or agent, if the notice was served by the attorney or agent.

PART VII.—MISCELLANEOUS.

65.—(1.) Upon the occurrence of any accident in connexion with the operation of any air service, the Commission may require any person, who, in the opinion of the Commission, may have been injured in the accident, to be examined at the cost of the Commission by one or more duly qualified medical practitioners nominated by the Commission and, unless the examination would thereby be delayed for a period of at least twenty-four hours, the person may require that the examination shall take place in the presence of a medical practitioner to be nominated and paid by the person.

Medical examination of persons injured in accident.

(2.) If any person refuses or fails to undergo examination in accordance with the provisions of the last preceding sub-section, no damages or compensation shall be recoverable against the Commission in respect of personal injury to that person arising out of the accident unless he satisfies the court in which the action is brought that—

- (a) his refusal or failure to undergo examination was reasonable in the circumstances ; or
- (b) the Commission is not prejudiced in its defence by the refusal or failure of the person to undergo examination.

66. Subject to the *Carriage by Air Act* 1935, in any action brought against the Commission to recover damages or compensation in respect of personal injury, the court or jury shall not find or assess nor shall judgment be given or entered for the plaintiff for any amount of money exceeding the amount following, that is to say :—

Limit of damages for personal injury.

- If the personal injury results in death, Two thousand pounds ;
- If the personal injury results in permanent disablement, Two thousand pounds ;
- If the personal injury results in temporary disablement, One thousand pounds.

67. The *Commonwealth Employees' Compensation Act* 1930–1944 shall apply to employees of the Commission as if they were employees within the meaning of that Act.

Application of the Commonwealth Employees' Compensation Act 1930–1944.

68. The Commission may enter into such contracts, agreements or arrangements as it thinks fit for the purpose of insuring, against the risks of injury, loss or damage from accidents occurring in connexion with the operation of air services, passengers or goods carried or about to be carried by aircraft engaged in those air services.

Insurance.

69.—(1.) The Commission may make by-laws, not inconsistent with this Act, prescribing matters providing for or in relation to—

By-laws.

- (a) the operation of the air services, and the conditions governing the performance of any service which the Commission may under this Act carry out or authorize ;
- (b) the protection and preservation of property of, or in the custody or under the control of, the Commission ;
- (c) the maintenance of order in connexion with the operation of the air services ;

- (d) the disposal of unclaimed goods in the possession of the Commission ;
 - (e) the prohibition of any interference with the air services or any property of the Commission or of any interference with or obstruction of any officer or employee of the Commission ;
 - (f) the limitation of the liability of, and the conditions governing the making of claims upon, the Commission in respect of any damage to or loss of any goods ; and
 - (g) the provision of penalties not exceeding Fifty pounds or imprisonment for any period not exceeding three months for the breach of any by-law.
- (2.) No by-law shall have any force or effect until it has been—
- (a) approved by the Governor-General ; and
 - (b) published in the *Gazette*.
- (3.) By-laws shall be deemed to be Statutory Rules within the meaning of the *Rules Publication Act* 1903–1941.
- (4.) Sections forty-eight and forty-nine of the *Acts Interpretation Act* 1901–1941 shall apply to by-laws in like manner as they apply to regulations.

Regulations.

70. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for prescribing penalties not exceeding a fine of Fifty pounds or imprisonment for any period not exceeding three months, or both, for breaches of the regulations.
