

CIVIL AVIATION AGREEMENT.

No. 86 of 1957.

An Act relating to a proposed Agreement between the Commonwealth, the Australian National Airlines Commission and certain Companies in connexion with Airline Services, and to amend the *Civil Aviation Agreement Act 1952*.

[Assented to 12th December, 1957.]

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

Short title.

1. This Act may be cited as the *Civil Aviation Agreement Act 1957*.

Commencement.

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

Approval of execution of agreement.

3. The execution on behalf of the Commonwealth of an agreement in accordance with the form in the Schedule to this Act is approved.

Australian National Airlines Commission empowered to enter into agreement.

4. The Australian National Airlines Commission is empowered to enter into an agreement in accordance with the form in the Schedule to this Act and to carry out its obligations and avail itself of its rights under the agreement.

5.—(1.) Section four of the *Civil Aviation Agreement Act* 1952 is amended by adding at the end thereof the following sub-section:—

Amendment of
*Civil Aviation
Agreement Act*
1952.

“(2.) The last preceding sub-section shall be deemed to authorize the giving of a guarantee of the payment by Australian National Airways Proprietary Limited of amounts payable by that Company under arrangements made in substitution for the original arrangements with respect to a loan made before the commencement of this sub-section, being a loan the repayment of which was guaranteed under that sub-section.”

(2.) The *Civil Aviation Agreement Act* 1952, as amended by this section, may be cited as the *Civil Aviation Agreement Act* 1952–1957.

THE SCHEDULE.

Sections 3 and 4.

THIS AGREEMENT is made the _____ day of _____ One thousand nine hundred and _____ BETWEEN THE COMMONWEALTH OF AUSTRALIA (in this agreement referred to as “the Commonwealth”) of the first part, the AUSTRALIAN NATIONAL AIRLINES COMMISSION constituted under the *Australian National Airlines Act* 1945–1956 of the Commonwealth (in this agreement referred to as “the Commission”) of the second part, AUSTRALIAN NATIONAL AIRWAYS PROPRIETARY LIMITED a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at 289 William Street Melbourne in the said State (in this agreement referred to as “the Company”) of the third part, ANSETT AIRWAYS PROPRIETARY LIMITED a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at Commonwealth Aerodrome Essendon in the said State of the fourth part, and ANSETT TRANSPORT INDUSTRIES LIMITED a company incorporated under the laws of the State of Victoria relating to companies and whose registered office is situated at 465 Swanston Street Melbourne in the said State of the fifth part:

WHEREAS by an agreement (in this agreement called “the Civil Aviation Agreement”) made the Twenty-fourth day of October, One thousand nine hundred and fifty-two between the Commonwealth and the Company and set forth in the schedule to the *Civil Aviation Agreement Act* 1952, the Commonwealth and the Company agreed, inter alia, to rationalize certain airline services operated by the Commission and the Company:

AND WHEREAS by the *Civil Aviation Agreement Act* 1952, the Parliament of the Commonwealth of Australia approved the Civil Aviation Agreement and provided that the Commission should do all such things as the Civil Aviation Agreement provided that the Commission would do:

AND WHEREAS Ansett Transport Industries Limited has purchased all the issued shares in Australian National Airways Proprietary Limited and has the controlling interest in Ansett Airways Proprietary Limited:

AND WHEREAS one of the objects of the parties to this agreement is to secure and maintain a position in which there are two, and not more than two, operators of trunk route airline services, one being the Commission, each capable of effective competition with the other, and the parties intend that this agreement shall be construed having regard to that object:

THE SCHEDULE—continued.

AND WHEREAS the parties to this agreement are desirous of extending certain of the provisions of the Civil Aviation Agreement as to rationalization of services to certain other routes:

AND WHEREAS the parties to the Civil Aviation Agreement are desirous, as part of the steps referred to in clause 7 of that agreement, to review and to keep under review at all times during the continuance of the Civil Aviation Agreement air routes, time-tables, fares and freights and other related matters in respect of certain routes, and for the purpose of this agreement, of establishing a committee as set out in this agreement:

NOW THIS AGREEMENT WITNESSETH that it is agreed by and between the parties to this agreement as follows:

Extension of rationalization.

1. The Commission, the Company and Ansett Transport Industries Limited, and all airline companies or firms in which Ansett Transport Industries Limited has a controlling interest (all of which Commission, companies and firms are in this agreement collectively referred to as "the airline operators") will take immediate steps to review and will keep under review at all times during the continuance of this agreement air routes, time-tables, fares and freights and other related matters in respect of routes (in addition to the routes specified in sub-clause (1.) of clause 7 of the Civil Aviation Agreement) on which both the Commission and any one of the other airline operators operate, or propose to operate, so as to avoid unnecessary overlapping of services and wasteful competition, to provide the most effective and economical services with due regard to the interests of the public and to bring earnings into a proper relation to over-all costs.

Extended application of certain provisions of Civil Aviation Agreement.

2. The provisions of sub-clauses (2.), (3.) and (4.) of clause 7 and clause 14 of the Civil Aviation Agreement shall apply in respect of clause 1 of this agreement in the same manner, *mutatis mutandis*, as they apply in respect of sub-clause (1.) of clause 7 of the Civil Aviation Agreement.

Establishment of Rationalization Committee.

3. The parties will take immediate steps to establish a Rationalization Committee (in this agreement referred to as "the Committee") which shall be constituted from time to time by—

- (a) a person nominated by the Minister who shall be known as the Co-ordinator;
- (b) a member nominated by the Commission; and
- (c) a member nominated by the Company.

Functions of the Committee.

4.—(1.) If the airline operators concerned are unable to agree on any matter arising under sub-clause (1.) of clause 7 of the Civil Aviation Agreement or clause 1 of this agreement, the matter in dispute may be referred to the Committee by any one of those airline operators.

(2) The Commonwealth and the airline operators will each, upon being required so to do by the Co-ordinator, furnish or produce to the Committee all information, documents, books, papers and accounts which the Co-ordinator considers necessary to enable the Committee to consider any matter referred to the Committee under this clause.

(3.) The Committee will consider the matter and, if the members nominated by the Commission and the Company are, after such consideration, still unable to agree, the Co-ordinator shall decide the matter and, subject to the next succeeding sub-clause, his decision shall be final and binding on the airline operators.

(4.) Where the Co-ordinator pursuant to this clause makes a decision on a matter referred to in this clause—

- (a) the Commission or the Company, in the case of a matter arising under sub-clause (1.) of clause 7 of the Civil Aviation Agreement; or
- (b) one of the airline operators, in the case of a matter arising under clause 1 of this agreement,

may elect to have the matter decided in accordance with sub-clause (2.) of clause 7 of the Civil Aviation Agreement, in its application by virtue of that agreement or by virtue of clause 2 of this agreement, as the case may be.

(5.) The Co-ordinator shall give reasons in writing for each of his decisions and, where a matter is to be determined in accordance with sub-clause (2.) of clause 7 of the Civil Aviation Agreement, whether applying by virtue of that agreement or by virtue of clause 2 of this agreement, the Co-ordinator shall furnish those reasons to the Chairman appointed in pursuance of clause 14 of the Civil Aviation Agreement.

THE SCHEDULE—continued.

5. As soon as practicable, and in any case not later than twenty-five months after the date of this agreement, Ansett Airways Proprietary Limited will cease to operate airline services and will not, during the continuance of this agreement, resume the operation of an airline service or services. Ansett Airways to cease operation of airline services.
6. Ansett Transport Industries Limited will do everything within its power to ensure that the airline companies or firms in which it has a controlling interest will do all such acts and things as this agreement provides that they will do and that those companies and firms will not do anything inconsistent with the provisions or purposes of this agreement. Compliance with agreement.
7. For the purposes of the Civil Aviation Agreement any act or omission on the part of the Company prior to the date of this agreement shall be deemed not to constitute a breach of the Civil Aviation Agreement or a default in the repayment of moneys secured by a guarantee or guarantees given by the Commonwealth pursuant to the provisions of the Civil Aviation Agreement. Past omissions of company.
8. Nothing in this agreement requires or permits the airline operators to act in any manner inconsistent with the *Air Navigation Act* 1920-1950 or with the regulations in force under that Act. Air Navigation Act.
9. This agreement shall continue in force until the termination of the Civil Aviation Agreement. Period of agreement.
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