

AUSTRALIAN NATIONAL AIRLINES.

No. 3 of 1959.

An Act to amend the *Australian National Airlines Act* 1945-1958, and for other purposes.

[Assented to 21st April, 1959.]

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

1.—(1.) This Act may be cited as the *Australian National Airlines Act* 1959. Short title and citation.

(2.) The *Australian National Airlines Act* 1945-1958* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Australian National Airlines Act* 1945-1959.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2.) Sections thirteen, twenty, twenty-one and twenty-two of this Act shall come into operation on a date to be fixed by Proclamation.

3. Section three of the Principal Act is repealed and the following section inserted in its stead:—

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

Part I.—Preliminary (Sections 1-5).

Part II.—The National Airline Services.

Division 1.—Establishment and Constitution of the Australian National Airlines Commission (Sections 6-18B).

Division 2.—Powers, Functions and Duties of the Commission (Sections 19-29).

Division 3.—Finances of the Commission (Sections 30-38).

Division 4.—Reports (Sections 40-41).

Part VI.—Penalties and Procedure (Sections 60-63).

Part VII.—Miscellaneous (Sections 65-70).”

4. Section four of the Principal Act is amended—

(a) by omitting the definition of “ Acting Commissioner ” and inserting in its stead the following definition:— Definitions.

“ ‘ Acting Commissioner ’ means a person appointed under section ten of this Act to act as a Commissioner; ”

* Act No. 31, 1945, as amended by No. 90, 1947; No. 102, 1952; No. 105, 1956; and No. 70, 1958.

(b) by omitting the definitions of “adequate airline service”, “Chairman”, “contractor” and “owner”;

(c) by inserting after the definition of “Territorial airline service” the following definition:—

“ ‘the Chairman’ means the Chairman of the Commission, and includes a Commissioner acting as Chairman under section ten of this Act; ”; and

(d) by omitting the definition of “the licensing authority” and inserting in its stead the following definition:—

“ ‘the Vice-Chairman’ means the Vice-Chairman of the Commission, and includes a Commissioner appointed under section ten of this Act to act as the Vice-Chairman; ”.

Australian
National
Airlines
Commission.

5. Section six of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(5.) The exercise or performance of the powers or functions of the Commission is not affected by reason only of there being a vacancy in the office of a Commissioner.”.

Composition of
Commission.

6. Section seven of the Principal Act is amended by omitting from sub-section (1.) the words “five Commissioners” and inserting in their stead the words “six Commissioners”.

7.—(1.) Section eight of the Principal Act is repealed and the following section inserted in its stead:—

Term of office
of
Commissioners.

“8.—(1.) A Commissioner shall be appointed to hold office for a period not exceeding five years.

“(2.) A Commissioner is eligible for re-appointment.”.

(2.) The last preceding sub-section does not affect the term of office of a Commissioner holding office at the commencement of this section.

8.—(1.) Sections nine to fifteen (inclusive) of the Principal Act are repealed and the following sections inserted in their stead:—

Remuneration
of
Commissioners.

“9. A Commissioner shall be paid such remuneration and allowances as the Governor-General determines.

Absence of
Commissioners.

“10.—(1.) Where the Minister grants leave of absence to a Commissioner under the next succeeding section, the Minister may appoint a person to act as a Commissioner during that absence, and a person so appointed has all the powers and functions of a Commissioner.

“(2.) Where the Minister grants leave of absence to the Chairman of the Commission under the next succeeding section, the Vice-Chairman shall act as Chairman during the absence.

“(3.) Where the Minister grants leave of absence to the Vice-Chairman of the Commission under the next succeeding section, or where the Vice-Chairman is or will be acting as Chairman, the Commission may appoint a Commissioner (other than an Acting Commissioner) to act as Vice-Chairman during the absence, or during the period for which the Vice-Chairman acts as Chairman, as the case may be.

“11. The Minister may grant leave of absence to a Commissioner upon such terms and conditions as to remuneration or otherwise as the Minister determines.

Leave of absence.

“12. The Governor-General may terminate the appointment of a Commissioner for inability, inefficiency or misbehaviour.

Dismissal of Commissioner.

“13. A Commissioner or an Acting Commissioner may resign his office by writing under his hand addressed to the Governor-General or the Minister, as the case may be, but the resignation is not effective unless it has been accepted by the Governor-General or the Minister, as the case may be.

Resignation of Commissioners.

“14.—(1.) If a Commissioner—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister, from three consecutive meetings of the Commission; or
- (c) fails to comply with his obligations under the next succeeding sub-section,

Vacation of office.

the Governor-General shall, by notice in the *Gazette*, declare that the office of the Commissioner is vacant, and thereupon the office shall be deemed to be vacant.

“(2.) A Commissioner who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

“(3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the Commission, and the Commissioner—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

“(4.) Sub-section (2.) of this section does not apply in relation to a contract between a Commissioner and the Commission for the carriage of the Commissioner or another person or of any goods.

**Meetings of
Commission.**

“15.—(1.) The Commission shall hold such meetings as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.

“(2.) The Minister may at any time convene a meeting of the Commission.

“(3.) The Chairman shall, on receipt of a written request signed by not less than two Commissioners, call a meeting of the Commission.

“(4.) The Chairman shall preside at all meetings of the Commission at which he is present.

“(5.) In the event of the absence of the Chairman from a meeting of the Commission, the Vice-Chairman shall preside at that meeting.

“(6.) In the event of the absence of both the Chairman and the Vice-Chairman from a meeting of the Commission, the Commissioners present shall appoint one of their number to preside at that meeting.

“(7.) At a meeting of the Commission, three Commissioners constitute a quorum.

“(8.) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present.

“(9.) The person presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

“(10.) The general manager shall, as far as practicable, attend all meetings of the Commission but, if the Commission so directs, he shall retire from a meeting.”.

(2.) A determination under section nine of the Principal Act, as amended by this Act, may have effect on or from a date not earlier than the first day of July, One thousand nine hundred and fifty-seven.

**Appointment
of officers.**

9. Section seventeen of the Principal Act is amended—

(a) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“(4.) The regulations may provide that persons who possess prescribed educational qualifications may, notwithstanding the provisions of the last

preceding sub-section, but subject to such conditions (if any) as are prescribed, be appointed to clerical offices in the Service of the Commission without having passed the prescribed entrance examination, and such persons may be appointed accordingly.”; and

- (b) by omitting from sub-section (7.) the words “Fifteen hundred pounds” and inserting in their stead the words “Two thousand five hundred pounds”.

10.—(1.) Section nineteen A of the Principal Act is amended by omitting from sub-section (1.) the words “prior to the commencement of this section” and inserting in their stead the words “prior to the commencement of section ten of the *Australian National Airlines Act 1959*”.

Intra-state services in pursuance of powers referred by State Parliaments.

(2.) On and after the date of commencement of this section, the provisions of the Principal Act, as amended by the provisions of this Act that come into operation on that date, in their application to or in relation to airline services referred to in section nineteen A of that Act, as so amended, shall be deemed to have effect by virtue of this Act.

11. Section twenty-one of the Principal Act is amended by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

Power to purchase and dispose of assets.

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

- (a) purchase any land for a consideration exceeding Twenty thousand pounds;
- (b) enter into a lease of land for a period exceeding ten years; or
- (c) dispose of any property, right or privilege where the consideration for the disposal, or the value of the property, right or privilege, exceeds Fifty thousand pounds.

“(3.) The Commission shall not, without the approval of the Minister, enter into a contract for the supply of aircraft, equipment or materials to the Commission for a consideration exceeding Fifty thousand pounds.”.

12. Section twenty-two of the Principal Act is amended by omitting the words “the Minister on behalf of”.

Contracts for transport of mails.

13. Section twenty-four of the Principal Act is repealed.

Commission to be common carrier.

Capital of the
Commission.

14. Section thirty of the Principal Act is amended by omitting from sub-section (1.) the word "more" and inserting in its stead the word "those".

15. Sections thirty-three, thirty-four, thirty-five and thirty-six of the Principal Act are repealed and the following sections inserted in their stead:—

Bank accounts.

" 33.—(1.) The Commission shall open and maintain an account or accounts with the Commonwealth Bank of Australia, and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves.

" (2.) The Commission shall pay all moneys received by it into an account referred to in this section.

Application
of moneys.

" 34.—(1.) Subject to this Act, the moneys of the Commission shall be applied only—

(a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Commission under this Act ;

(b) in payment of the remuneration and allowances of the Commissioners; and

(c) in making payments to the Commonwealth as provided by this Act.

" (2.) Moneys of the Commission not immediately required for the purposes of the Commission may be invested on fixed deposit with the Commonwealth Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

Proper accounts
to be kept.

" 35. The Commission shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorized and that adequate control is maintained over the assets of the Commission and the incurring of liabilities by the Commission.

Audit.

" 36.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission, and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

" (2.) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under the last preceding sub-section.

" (3.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission

relating directly or indirectly to the receipt or payment of moneys by the Commission or to the acquisition, receipt, custody or disposal of assets of the Commission.

“(4.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

“(5.) The Auditor-General or an officer authorized by him may require a Commissioner or an officer of the Commission to furnish him with such information in the possession of the Commissioner or officer or to which the Commissioner or officer has access as the Auditor-General or authorized officer considers necessary for the purpose of the performance of the functions of the Auditor-General under this Act, and the Commissioner or officer of the Commission shall comply with the requirement.”.

16. Section thirty-eight of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

Profits of
Commission.

“(1.) For the purposes of this Act, the profits of the Commission for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure properly chargeable against that revenue.

“(2.) For the purposes of the last preceding sub-section, the expenditure of the Commission properly chargeable against the revenue received or receivable in respect of a financial year includes—

- (a) charges and expenses accrued in that year but not paid;
- (b) provision made in that year for obsolescence and depreciation of assets;
- (c) provision made in that year for the overhaul of aircraft, engines and operating equipment;
- (d) provision made in that year in lieu of insurance;
- (e) provision made in that year for staff superannuation;
- and
- (f) provision made in that year for income tax,

but does not include expenditure charged against amounts provided out of the revenue of a previous year or expenditure in payment of charges and expenses accrued in a previous year.”.

17. Section forty of the Principal Act is repealed and the following section inserted in its stead:—

“40.—(1.) The Commission shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of its operations during the year ended on that date, together with financial statements in respect of that year in such form as the Treasurer approves.

Annual report
of
Commission.

“(2.) Before furnishing the financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the Commission;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act;
- (d) as to the adequacy of provision in the nature of reserves made in the accounts of the Commission; and
- (e) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

“(3.) The Minister shall lay the report and financial statements of the Commission, together with the report of the Auditor-General, before each House of the Parliament within fifteen sitting days of that House after their receipt by the Minister.”

Repeal of
Parts III,
IV. and V.
Recovery of
fares or
charges.

18. Parts III., IV. and V. of the Principal Act are repealed.

19. Section sixty of the Principal Act is amended by omitting from paragraph (a) the word “his” and inserting in its stead the word “its”.

Limitation
of actions
against the
Commission.

20. Section sixty-three of the Principal Act is amended—

- (a) by omitting the words “six months” and inserting in their stead the words “two years”; and
- (b) by adding at the end thereof the following sub-section :—

“(2.) This section does not apply to an action to which a period of limitation is applicable by virtue of the *Civil Aviation (Damage by Aircraft) Act 1958* or the *Civil Aviation (Carriers’ Liability) Act 1959*.”

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

21. Section sixty-four of the Principal Act is repealed.

Limit of
damages for
personal injury
or death.

22.—(1.) Section sixty-six of the Principal Act is repealed and the following section inserted in its stead :—

“66.—(1.) In an action brought against the Commission to recover damages or compensation in respect of personal injury or death (including proceedings for the recovery of contribution from the Commission brought by a tort-feasor who is liable in respect of the same injury or death) the plaintiff is not entitled to recover an amount exceeding Seven thousand five hundred pounds.

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“(2.) This section does not apply in relation to the liability of the Commission by virtue of the *Civil Aviation (Damage by Aircraft) Act 1958* or the *Civil Aviation (Carriers’ Liability) Act 1959*.”.

(2.) The amendment made by this section does not apply in relation to a cause of action that arose before the commencement of this section.

23. Section sixty-nine of the Principal Act is amended by inserting in sub-section (1.), after the words “this Act” (first occurring), the words “or any other Act”.