

# Airlines Agreements

No. 129 of 1972

An Act to amend the *Airlines Agreements Act 1952-1961*.

[Assented to 2 November 1972]

**B**E 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 and citation.

1.—(1.) This Act may be cited as the *Airlines Agreements Act 1972*.

(2.) The *Airlines Agreements Act 1952-1961*\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Airlines Agreements Act 1952-1972*.

Commencement.

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

Approval of Agreements.

3. Section 3 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(3.) The agreement between the Commonwealth, the Australian National Airlines Commission, Ansett Transport Industries Limited and Ansett Transport Industries (Operations) Proprietary Limited, being the agreement a copy of which is set forth in the Third Schedule to this Act, is approved.”.

4. Section 5 of the Principal Act is repealed and the following section inserted in its stead:—

Powers of Australian National Airlines Commission.

“ 5. The Australian National Airlines Commission—

(a) shall be taken to have had power to enter into the agreement referred to in sub-section (2.) of section three of this Act and the agreement referred to in sub-section (3.) of that section; and

(b) is empowered to do all such things as those agreements, and the agreement referred to in sub-section (1.) of section three of this Act as affected by each of those agreements, provide that the Commission will do.”.

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\* Act No. 100, 1952, as amended by No. 86, 1957; and No. 70, 1961.

5. The Principal Act is amended by adding at the end thereof the following Schedule:—

Third  
Schedule.

### THIRD SCHEDULE.

Section 3 (3).

AN AGREEMENT made the twenty-first day of October One thousand nine hundred and seventy-two between the COMMONWEALTH OF AUSTRALIA (in this Agreement called "the Commonwealth") of the first part, the AUSTRALIAN NATIONAL AIRLINES COMMISSION constituted under the Australian National Airlines Act 1945-1970 (in this Agreement called "the Commission") of the second part, ANSETT TRANSPORT INDUSTRIES LIMITED a company incorporated under the laws of the State of Victoria relating to companies whose registered office is situate at 489 Swanston Street, Melbourne in the said State (in this Agreement called "the Company") of the third part and ANSETT TRANSPORT INDUSTRIES (OPERATIONS) PROPRIETARY LIMITED (formerly called Australian National Airways Proprietary Limited) a company incorporated under the laws of the State of Victoria relating to companies whose registered office is situate at 489 Swanston Street, Melbourne aforesaid (in this Agreement called "the Operating Company") of the fourth part.

WHEREAS by an agreement (in this Agreement called "the 1952 Agreement") made the twenty-fourth day of October, 1952 between the Commonwealth and Australian National Airways Proprietary Limited and set forth in the Schedule to the Civil Aviation Agreement Act 1952 certain arrangements were agreed to with respect to the operation of air services within Australia:

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

AND WHEREAS following the acquisition by the Company of all the issued shares in Australian National Airways Proprietary Limited an agreement was made the sixteenth day of December, 1957 between the Commonwealth, the Commission, the Operating Company, Ansett Airways Proprietary Limited and the Company in accordance with the provisions of the Civil Aviation Agreement Act 1957 under which additional arrangements were agreed upon with respect to the operation of air services within Australia, including the establishment of a Rationalization Committee.

AND WHEREAS by an agreement (in this Agreement called "the 1961 Agreement") made the twenty-sixth day of September, 1961 between the Commonwealth, the Commission, the Company and the Operating Company and approved by the Airlines Agreements Act 1961 further provision was made with respect to the said air services, including the consolidation of procedures relating to the rationalization of domestic air services:

AND WHEREAS it was provided by the 1961 Agreement that upon the commencement of that agreement the said agreement dated the sixteenth day of December, 1957 and certain provisions of the 1952 Agreement ceased to have force and effect:

AND WHEREAS it was further provided by the 1961 Agreement that the 1952 Agreement as affected by the 1961 Agreement will continue in force for a further period of ten years so as to expire on the eighteenth day of November, 1977 and that the 1961 Agreement is to be read and construed as forming part of the 1952 Agreement as so extended and affected:

AND WHEREAS the parties hereto are prepared to agree to the further continuance in force of those agreements upon and subject to the terms and conditions hereinafter set out and subject to this Agreement being entered into by the parties accordingly:

NOW THIS AGREEMENT WITNESSES and it is agreed by and between the parties to this Agreement as follows:—

1. This Agreement shall have no force or effect and shall not be binding on the parties to it unless and until it is approved by the Parliament of the Commonwealth.

Approval by  
Parliament

2. This Agreement shall commence and come into full force and effect upon the date upon which it is approved by the Parliament of the Commonwealth.

Commence-  
ment

3.—(1.) This Agreement is supplemental to the 1952 Agreement and shall be read and construed as forming part of the 1952 Agreement as extended and affected by the 1961 Agreement.

The 1952-1972  
Airlines  
Agreement

THIRD SCHEDULE—*continued*

(2.) The 1952 Agreement as extended and affected by the 1961 Agreement and by this Agreement, the 1961 Agreement as extended and affected by this Agreement, and this Agreement are together referred to in this Agreement as, and shall be known as, "the 1952-1972 Airlines Agreement".

Continuance  
of  
Agreements

4.—(1.) Notwithstanding the provisions of the 1952 Agreement and of the 1961 Agreement relating to the periods of operation of those agreements, the 1952-1972 Airlines Agreement shall continue in force after the eighteenth day of November, 1977 unless and until determined in accordance with the provisions of this clause.

(2.) The Company may terminate the 1952-1972 Airlines Agreement by giving, at any time after the thirty-first day of December, 1977, to the Minister at the head office of the Department of Civil Aviation notice in writing of termination taking effect not less than five years after the giving of the notice.

(3.) The Commonwealth may terminate the 1952-1972 Airlines Agreement by giving, at any time after the thirty-first day of December, 1977, to the Company at its registered office for the time being notice in writing of termination taking effect not less than five years after the giving of the notice.

(4.) Notice under the last preceding sub-clause shall not be given unless the consent of both Houses of the Parliament of the Commonwealth expressed by resolution has first been given to termination of the 1952-1972 Airlines Agreement by the Commonwealth.

(5.) If the Company or the Commonwealth gives a notice under this clause it shall as soon as practicable thereafter furnish a copy of the notice to the Commission at its head office and to the Operating Company at its registered office for the time being.

Parallel  
Scheduling

5.—(1.) If in the opinion of the Minister air services operated on any route by the Commission and the Operating Company in accordance with timetables approved by the Director-General pursuant to regulation 106c of the Air Navigation Regulations are operated at such times, having regard to the relative closeness in scheduling of flights of the two airlines, as to give rise to substantial grounds for complaint that the services are not operated at intervals that adequately serve the public interest the Minister may by notice in writing given to the Commission at its head office and to the Company at its registered office for the time being invoke the application of the provisions of this clause with respect to the relevant services.

(2.) Upon the invocation of the application of the provisions of this clause the timetables of the relevant air services shall be deemed to be a matter in dispute between the Commission and the Company and to have been referred to the Committee pursuant to sub-clause (1.) of clause 12 of the 1961 Agreement to be determined in accordance with the provisions of clauses 12, 13 and 14 of the 1961 Agreement.

(3.) The Co-ordinator and if appropriate the Arbitrator shall decide the matter deemed to be in dispute under this clause as if the Commission and the Company and their respective nominees on the Committee were not able to reach agreement for the purposes of sub-clauses (1.) and (2.) of clause 12 and of sub-clause (3.) of clause 13 by determining the timetables in accordance with which, subject to the approval of the Director-General under the said regulation 106c, the air services are to be operated.

(4.) The Co-ordinator and if appropriate the Arbitrator shall take into account the views in respect of the matter to be decided that are presented on behalf of the Minister in the course of the relevant proceedings in addition to other relevant factors.

Rural/Air  
Services

6. For the purpose of providing for the maintenance and encouragement of rural air services, the Commission and the Operating Company each undertakes—

- (a) that it will maintain airline services to all places to which it operates airline services at the date of this Agreement for so long as the revenue from the particular service exceeds the direct operating costs of that service; and
- (b) that it will not cease to operate a service except after prior consultation with the Director-General with a view to the replacement of the service by an air service conducted by the holder of a charter licence to whom approval has been given to operate a regular public transport service in accordance with regulation 203 of the Air Navigation Regulations.

THIRD SCHEDULE—*continued*

7. The Commission, the Company and the Operating Company undertake to investigate and keep under review the introduction, consistently with the objective of maintaining efficient and economical air services, of promotional fares for the purposes of stimulating traffic and increasing returns and to take appropriate action for the introduction of such fares as are decided upon for those purposes.

Promotional  
Fares

8. The Commission, the Company and the Operating Company undertake to investigate and keep under review and to implement appropriate measures to stimulate and promote the development on a sound and economic basis of the carriage of freight by air.

Air Freight

9.—(1.) The Commission and the Operating Company undertake not to operate turbo-jet aircraft at the Sydney, Brisbane and Adelaide airports and at any other airports at which operations are for the time being restricted to specific hours during the hours within which operations by turbo-jet aircraft are normally prohibited at those airports.

Curfew  
Operations

(2.) The last preceding sub-clause will not apply to cases of emergency or to cases where there has been unavoidable delay or to operations the Minister considers are necessary in the interests of the public generally in order that airline services may be provided during peak periods.

10. The parties acknowledge that nothing in the 1952–1972 Airlines Agreement shall preclude the Commonwealth, the Minister or the Director-General from permitting the holder of an airline or charter licence to develop—

Other  
Operators

(a) air services on routes other than trunk routes; or

(b) specialist freight and passenger services (including low-cost inclusive tours) of a nature which in the opinion of the Minister are not adequately provided for either by the Commission or the Operating Company,

consistently with the object of the parties to the 1952–1972 Airlines Agreement to secure and maintain a position where 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.

11.—(1.) So long as the 1952–1972 Airlines Agreement remains in force, the Company will as soon as practicable after the end of each financial year commencing with the financial year that ends on the thirtieth day of June, 1973 furnish to the Minister for presentation to the Parliament of the Commonwealth full financial information in respect of that part of its business and that of its subsidiary companies relating to the operation of air services.

Supply of  
information  
by the  
Company

(2.) The financial information shall be compiled from the accounts of the Company that have been audited as required under the provisions of the Companies Act 1961 of the State of Victoria as amended from time to time and shall be furnished in a form approved by the Minister and certified as to correctness either by any two Directors of the Company or in such other manner as may be approved by the Minister from time to time.

12. Without prejudice to the operation of clause 8 of the 1961 Agreement, the Commission, the Company and the Operating Company recognise that the Commonwealth is entitled to fully recover from the air transport industry the costs properly attributable to the provision of facilities for civil air transport and agree to facilitate the implementation of measures taken by the Commonwealth for the purpose of achieving that objective.

Cost  
Recovery  
Policy

13.—(1.) An obligation, prohibition or limitation imposed on the Company or the Operating Company under the 1952–1972 Airlines Agreement shall be deemed to severally bind or apply to the Company, the Operating Company and every company or firm in which the Company or the Operating Company has from time to time, whether directly or indirectly, a controlling interest.

Compliance  
with  
Agreement

(2.) The Company will ensure that all companies or firms in which it has from time to time, whether directly or indirectly, a controlling interest will do all such acts and things as the 1952–1972 Airlines Agreement provides that they will do and the Company and those companies and firms will not do anything inconsistent with the provisions or purposes of the 1952–1972 Airlines Agreement.

THIRD SCHEDULE—*continued*

- Legislation** 14. The Commonwealth will include in the legislation introduced in the Parliament of the Commonwealth to approve this Agreement a provision that will authorise and empower the Commission, in the exercise of its powers and functions, to enter into this Agreement and to do all things that the 1952–1972 Airlines Agreement provides that the Commission will do or is empowered to do.
- Definitions** 15.—(1.) In the 1952–1972 Airlines Agreement, unless the contrary intention appears—  
 “the Director-General” means the Director-General of Civil Aviation and includes a person for the time being acting in that office.
- (2.) Throughout the 1952–1972 Airlines Agreement, except where the context otherwise requires—  
 (a) references to Australia shall be read as including the Territories;  
 (b) references to the Territories, including the reference in sub-paragraph (a) of this sub-clause, shall not include the Territory of Papua New Guinea after that Territory attains independence.
- (3.) In clause 10 of the 1961 Agreement as extended and affected by this Agreement the expression “air services” means air services for which an airline licence under the Air Navigation Regulations is or has been held during the currency of the 1952–1972 Airlines Agreement by both the Commission and the Operating Company.

IN WITNESS WHEREOF the parties have executed this Agreement as at the day and year first above written.

SIGNED SEALED AND DELIVERED for and on behalf of }  
 THE COMMONWEALTH OF AUSTRALIA by the Right } WILLIAM McMAHON.  
 Honourable WILLIAM McMAHON, Prime Minister, in } L.S.  
 the presence of—

GRAHAM R. FELL.

THE COMMON SEAL of the AUSTRALIAN NATIONAL }  
 AIRLINES COMMISSION was hereunto affixed in the } L.S.  
 presence of—

F. R. W. SCHERGER *Chairman*  
 L. J. FITZGERALD *Secretary*

THE COMMON SEAL of ANSETT TRANSPORT INDUSTRIES }  
 LIMITED was hereunto affixed in the presence of— } L.S.

R. M. ANSETT *Director*  
 R. L. COOPER *Secretary*

THE COMMON SEAL of ANSETT TRANSPORT INDUSTRIES }  
 (OPERATIONS) PROPRIETARY LIMITED was hereunto } L.S.  
 affixed in the presence of—

F. PASCOE *Director*  
 H. W. POULTON *Director*  
 J. K. SIMPSON *Secretary*