

Australian National Airlines Act 1973

No. 92 of 1973

AN ACT

To amend the *Australian National Airlines Act 1945-1972*

[Assented to 24 August 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Australian National Airlines Act 1973*. Short title
and citation.

(2) The *Australian National Airlines Act 1945-1972** 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 1945-1973*.

2. Section 4 of the Principal Act is amended—

Definitions.

(a) by inserting after the definition of “air service” the following definition:—

“ ‘approved bank’ means a bank approved by the Treasurer for the purposes of the provision in which the expression occurs;” and

* Act No. 31, 1945, as amended by No. 90, 1947; No. 102, 1952; No. 103, 1956; No. 70, 1958; No. 3, 1959; No. 71, 1961; No. 93, 1966; No. 53, 1970; No. 130, 1972.

(b) by inserting after the definition of "Commissioner" the following definition:—

“ ‘ general manager ’ means the general manager appointed under section 17;”.

**Composition
of
Commission.**

3. (1) Section 7 of the Principal Act is amended—

(a) by omitting from sub-section (1) the words " six Commissioners " and substituting the words " seven Commissioners "; and

(b) by inserting after sub-section (1) the following sub-section:—

“ (1A) A person may be, at the same time, a Commissioner and the general manager.”.

(2) A person who held office as a Commissioner immediately before the commencement of this section continues to hold office as a Commissioner as if he had been appointed as a Commissioner under the Principal Act as amended by this Act.

(3) A person who was, immediately before the commencement of this section, the Chairman or the Vice-Chairman of the Commission continues to be the Chairman or the Vice-Chairman, as the case may be, of the Commission as if he had been appointed as the Chairman or the Vice-Chairman, as the case may be, of the Commission under the Principal Act as amended by this Act.

**Meetings of
Commission.**

4. Section 15 of the Principal Act is amended by omitting sub-section (10) and substituting the following sub-sections:—

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

“ (11) Where the general manager is not a Commissioner, he shall if the Commission so directs, retire from a meeting of the Commission.”.

5. Section 19 of the Principal Act is repealed and the following section substituted:—

**Functions
of
Commission.**

“ 19. (1) The functions of the Commission are—

(a) to transport passengers and goods for reward by air between prescribed places;

(b) to engage in other activities to the extent that they are within the limits of the powers of the Commission under a provision of this Act other than this section; and

(c) to provide to the Commonwealth and authorities of the Commonwealth, for reward, aviation, land transport and engineering services and such other services as can conveniently be provided by the use of the resources of the Commission,

and the Commission shall carry on business for the purpose of performing those functions.

“(2) For the purposes of sub-section (1), passengers or goods are transported between prescribed places if they are transported—

- (a) between a place in a State and a place in another State;
- (b) between a place in a Territory and a place in Australia outside that Territory;
- (c) between a place in a Territory and another place in that Territory; or
- (d) between a place in Australia and a place outside Australia, being places between which the provision of air transport by the Commission is approved by the Minister.”.

6. Section 19A of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:—

“(1) This section applies in relation to the State of Queensland and the State of Tasmania, being States by whose Parliaments the matter of air transport was referred to the Parliament of the Commonwealth before the commencement of section 10 of the *Australian National Airlines Act 1959*.

“(1A) Where, after the commencement of section 10 of the *Australian National Airlines Act 1959*, and before the commencement of this sub-section, the Parliament of a State has referred to the Parliament of the Commonwealth the matter of air transport, or any other matter that is such that, by reason of the reference, it is within the power of the Parliament of the Commonwealth to make exercisable by the Commission in that State the powers referred to in sub-section (1D), the Governor-General may, by Proclamation, declare that this section applies in relation to that State.

“(1B) This section ceases to apply in relation to a State by virtue of sub-section (1) or (1A) if there ceases to be in force any Act of the Parliament of the State by which there is referred to the Parliament of the Commonwealth a matter that is such that, by reason of the reference, it is within the power of the Parliament of the Commonwealth to make exercisable by the Commission in that State the powers referred to in sub-section (1D).

“(1C) This section applies in relation to a State that adopts this section and ceases to apply in relation to that State if the State law by which this section is adopted ceases to be in force.

“(1D) The Commission may transport passengers and goods, for reward, by air between any place in a State in relation to which this section applies and another place in that State, and the provisions of this Act apply to and in relation to the provision of transport in accordance with this sub-section in like manner as they apply to and in relation to the other functions of the Commission.”; and

Powers of Commission by virtue of matters referred by State Parliaments, &c.

- (b) by omitting from paragraph (a) of sub-section (2) the words "which it could not lawfully establish but for" and substituting the words "by virtue of".

7. After section 19A of the Principal Act the following sections are inserted:—

Powers of Commission as regards intra-State transport.

" 19B. (1) The Commission may, to the extent provided by sub-section (2), transport passengers or goods for reward by air or by land, or partly by air and partly by land, between places in the one State.

" (2) The powers of the Commission under sub-section (1) may be exercised for the purposes of the efficient, competitive and profitable conduct of the business of the Commission in respect of its function under paragraph (a) of sub-section (1) of section 19 or otherwise as incidental to the carrying on of that business.

Aerial services.

" 19C. (1) The Commission may, to the extent provided by sub-section (2), provide, for reward, services that involve the use of aircraft.

" (2) The powers of the Commission under sub-section (1) may be exercised for the purposes of the efficient, competitive and profitable conduct of the business of the Commission in respect of its function under paragraph (a) of sub-section (1) of section 19 or otherwise as incidental to the carrying on of that business.

Establishment, &c., of hotels and other establishments.

" 19D. (1) The Commission may, to the extent provided by sub-section (2), establish, maintain and operate, or make arrangements with other persons for or in connexion with the establishment, maintenance and operation of, hotels or other establishments or enterprises providing accommodation, recreation, entertainment or other services or facilities.

" (2) The powers of the Commission under sub-section (1) may be exercised for the purposes of the efficient, competitive and profitable conduct of the business of the Commission in respect of its function under paragraph (a) of sub-section (1) of section 19 or otherwise as incidental to the carrying on of that business.

Joint services.

" 19E. (1) The Commission may, subject to sub-section (2), make and carry out an arrangement with any person, including the Australian Coastal Shipping Commission or the Commonwealth Railways Commissioner, under which—

- (a) passengers or goods are to be transported between—
- (i) a place in a State and a place in another State;
 - (ii) a place in a Territory and a place in Australia outside that Territory; or
 - (iii) a place in Australia and a place outside Australia; and

(b) the passengers or goods are to be transported partly by air or road transport provided by the Commission and partly by transport provided by the other party.

“(2) The Commission shall not, without the approval of the Minister, make an arrangement under this section under which passengers or goods are to be transported outside Australia by air transport provided by the Commission.

“19F. Upon Papua New Guinea becoming an independent country and the Commonwealth and the Government of that country entering into arrangements for the transport, for reward, by the Commission of passengers and goods by air between places in that country or between places in that country and places outside Australia and that country, the Commission may transport passengers and goods in accordance with those arrangements.

Services in
Papua New
Guinea.

“19G. Where the Commission owns or controls engineering equipment used, or intended for use, in carrying out its functions, apart from this section, the Commission may make agreements for the use of that equipment, when it is not required for use in carrying out those functions, in carrying out work by or for another person and providing for the making of charges for the use of the equipment or for the carrying out of the work.

Use of
engineering
equipment
for outside
work.

“19H. (1) The Commission has power to do all things necessary or convenient to be done for or in connexion with, or as incidental to, the performance of its functions and, in particular, without limiting the generality of the foregoing, power—

Powers of
Commission.

- (a) to arrange for, or participate in, the formation of a company;
- (b) to subscribe for or otherwise acquire, and to dispose of, shares in a company; or
- (c) to enter into a partnership or an arrangement for sharing of profits.

“(2) A provision of this Act conferring a power on the Commission shall not be read so as to limit the powers of the Commission under any other provision.”

8. Section 20 of the Principal Act is amended—

- (a) by omitting the words “an air service” and substituting the words “a transport operation”; and
- (b) by omitting the word “transport” (last occurring) and substituting the word “operation”.

Fares and
charges.

9. Section 21 of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:—

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

- (a) acquire any property, right or privilege for a consideration exceeding in amount or value Two hundred and fifty thousand dollars or, if a higher amount is prescribed, that higher amount;

Power to
purchase and
dispose of
assets.

- (b) dispose of any property, right or privilege where the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds Two hundred and fifty thousand dollars or, if a higher amount is prescribed, that higher amount;
- (c) enter into a contract for the construction of a building for the Commission, being a contract under which the Commission is to pay an amount exceeding Two hundred and fifty thousand dollars or, if a higher amount is prescribed, that higher amount; or
- (d) enter into a lease of land for a period exceeding ten years.

“(3) Negotiations for the taking on lease or the purchase of land or buildings by the Commission or by a company controlled by the Commission shall be conducted in consultation with the Department of Services and Property or, where the Minister so directs, shall be conducted by that Department.”.

Contracts for transport of mails.

10. Section 22 of the Principal Act is amended by adding at the end thereof the words “ or land ”.

Alterations made by direction of Minister.

11. Section 25 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “ interstate airline service or Territorial airline service specified by the Minister ” and substituting the words “ transport service specified by the Minister, being a service authorized by this Act ”;
- (b) by omitting from sub-section (2) the words “ an airline service ” and substituting the words “ a transport service ”; and
- (c) by omitting from sub-section (2) the words “ the airline service ” and substituting the words “ the transport service ”.

12. Section 30 of the Principal Act is repealed and the following sections substituted:—

Capital of Commission.

“ 30. The capital of the Commission at any time is the sum of—

- (a) the amounts by way of capital made available by the Treasurer to the Commission before the commencement of this section; and
- (b) the amounts paid to the Commission by the Treasurer after the commencement of this section out of moneys appropriated by the Parliament for the purposes of providing further capital for the Commission,

less the sum of any amounts of capital repaid to the Commonwealth by the Commission after the commencement of this section.

Payments to Commonwealth.

“ 30A. (1) Interest is not payable to the Commonwealth on the capital of the Commission but the Commission shall pay to the Commonwealth, out of the profits of the Commission for a financial year, such amount as the Minister, with the concurrence of the Treasurer, determines.

“(2) The capital of the Commission is repayable to the Commonwealth at such times and in such amounts as the Minister, with the concurrence of the Treasurer, determines.

“(3) In the making of a determination under sub-section (1) or sub-section (2), regard shall be made to any advice that the Commission has furnished to the Minister in relation to the financial affairs of the Commission.”.

13. Section 31 of the Principal Act is amended—

(a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:—

Borrowing
by the
Commission.

“(1) The Commission may, with the approval of the Treasurer, borrow moneys from time to time in such amounts as the Minister certifies are, in his opinion, necessary for the exercise of its powers or the performance of its duties or functions under this Act.

“(2) The Treasurer may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend to the Commission, at such rate of interest and on such other terms and conditions as he determines, moneys that the Commission is authorized to borrow under sub-section (1).”;

(b) by omitting from sub-section (4) the words “with the concurrence of the Minister,”; and

(c) by omitting sub-section (6).

14. After section 31 of the Principal Act the following section is inserted:—

“31A. The Commission shall not more than four weeks after this Act receives the Royal Assent and thereafter from time to time at intervals of not more than four weeks transfer the moneys representing provisions made by the Commission for staff superannuation from the accounts of the Commission to the Commonwealth Superannuation Board or to such other trustees as the Treasurer approves.”.

Transfer of
superannuation
provisions.

15. Section 33 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:—

Bank
accounts.

“(1) The Commission may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.”.

16. Section 34 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

Application
of moneys.

“(2) Moneys of the Commission not immediately required for the purposes of the Commission may be invested—

(a) on fixed deposit with an approved bank;

(b) in securities of the Commonwealth; or

(c) in any other manner approved by the Treasurer.”.

17. Sections 35, 36 and 37 of the Principal Act are repealed and the following sections substituted:—

Proper
accounts to
be kept.

“ 35. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission 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, or in the custody of, the Commission and over 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 records relating to assets of, or in the custody of, the Commission, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his so doing.

“ (2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

“ (3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

“ (4) 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 by the Commission.

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

“ (6) The Auditor-General or an officer authorized by him may require any person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized officer considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

“ (7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding Two hundred dollars.

Liability of
Commission
to pay rates,
taxes and
charges.

“ 37. (1) The Commission shall pay all rates, taxes and charges under any law of the Commonwealth, a State or a Territory.

“ (2) The Commission is not a public authority for the purposes of paragraph (d) of section 23 of the *Income Tax Assessment Act 1936-1972*.

“ (3) The Commission is not a public transport authority for the purposes of item 77 in the First Schedule to the *Sales Tax (Exemptions and Classifications) Act 1935-1973*.”.

18. Section 38 of the Principal Act is amended—

- (a) by inserting in sub-section (1), after the word "expenditure", the words ", and provision for expenditure,"; and
- (b) by omitting sub-sections (2), (3) and (4) and substituting the following sub-sections:—

Profits of
Commission.

"(2) The profits of the Commission for a financial year shall be applied in the first place in payment of the amount determined under sub-section (1) of section 30A and the balance, if any, shall be applied in such manner as the Minister, with the concurrence of the Treasurer, determines.

"(3) In the making of a determination under sub-section (2), regard shall be had to any advice that the Commission has furnished to the Minister in relation to the financial affairs of the Commission."

19. Section 40 of the Principal Act is amended—

- (a) by inserting after sub-section (1) the following sub-sections:—

Annual
report of
Commission.

"(1A) The report shall disclose separately the results of activities of the Commission other than the operation of air services.

"(1B) The report by the Commission shall include details of—

- (a) any change in accounting principles adopted since the last report of the Commission, including any change in the rate or method of charging depreciation in the accounts of the Commission;
- (b) any material change in the method of valuation of the whole or any part of the stock of the Commission;
- (c) any material item appearing in the accounts of the Commission for the first time or not usually included in the accounts of the Commission;
- (d) any absence from the accounts of the Commission of any material item usually included in the accounts of the Commission; and
- (e) the adequacy of provisions in the nature of reserves made in the accounts of the Commission."
- (b) by adding at the end of paragraph (c) of sub-section (2) the word "and"; and
- (c) by omitting paragraph (d) of sub-section (2).

20. After section 41 of the Principal Act the following sections are inserted:—

"42. The Minister will not exercise any powers under or by virtue of this or any other Act, or regulations, so as to discriminate unfairly in favour of the Commission or any other person engaged in the provision of services for the transport of passengers or goods by air or by land or in the establishment, maintenance or operation of hotels or other establishments or enterprises providing accommodation, recreation, entertainment or other services or facilities.

Minister
to accord
Commission
and its
competitors
equal
treatment.

Compliance
with
Airlines
Agreements.

“43. Nothing in this Act will affect or authorize action inconsistent with the obligations of the Commission under, or the provisions or purposes of, the agreement referred to in sub-section (3) of section 3 of the *Airlines Agreements Act 1952-1972* and the agreement referred to in sub-section (2) of that section as affected by the foregoing agreement and the agreement referred to in sub-section (1) of that section as affected by each of the foregoing agreements.”

Formal
amendments.

21. The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 21

FORMAL AMENDMENTS

1. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used to identify a section of that Act or of another Act, and substituting that number expressed in figures:—

Sections 4 (definitions of “Acting Commissioner”, “the Chairman” and “the Vice-Chairman”), 37A (5), and 69 (4).

2. The following provisions of the Principal Act are amended by omitting the words “of this Act” and “of this section” (wherever occurring):—

Sections 4 (definitions of “Acting Commissioner”, “the Chairman” and “the Vice-Chairman”), 14 (4), 32 (3), (4) and (5) and 37A (5), (7), (8) and (9).
