



# **Airlines Equipment (Loan Guarantee) Act 1981**

**No. 38 of 1981**

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## **An Act relating to guarantees of certain borrowings by a domestic airline**

*[Assented to 21 April 1981]*

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

### **Short title**

**1.** This Act may be cited as the *Airlines Equipment (Loan Guarantee) Act* 1981.

### **Commencement**

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

### **Interpretation**

**3. (1)** In this Act, unless the contrary intention appears—  
“Ansett” means Ansett Transport Industries Limited;

“relevant subsidiary” means a body corporate that—

- (a) is a wholly-owned subsidiary of Ansett; and
- (b) owns or operates, or is to own or operate, aircraft.

(2) For the purposes of this Act—

(a) the issue by a person of instruments acknowledging a debt in consideration of—

- (i) the payment or deposit of moneys; or
- (ii) the provision of credit,

shall, to the extent of the amount of those moneys or of that credit, be deemed to be a borrowing by that person; and

(b) the obtaining of credit by a person shall, to the extent of the amount of that credit, be deemed to be a borrowing by that person.

(3) For the purposes of the definition of “relevant subsidiary” in subsection (1), a body corporate is a wholly-owned subsidiary of Ansett if that body corporate is a subsidiary of Ansett and none of the members of that body corporate is a person other than—

- (a) Ansett;
- (b) a nominee of Ansett;
- (c) a subsidiary of Ansett, being a subsidiary none of the members of which is a person other than Ansett or a nominee of Ansett; or
- (d) a nominee of a subsidiary referred to in paragraph (c).

(4) For the purposes of sub-section (3), the question whether a body corporate is a subsidiary of Ansett shall be determined in the same manner as the question whether a corporation is a subsidiary of another corporation is determined under the *Companies Ordinance* 1962 of the Australian Capital Territory as amended and in force from time to time.

#### **Guarantee of certain loans**

4. (1) Where—

(a) a relevant subsidiary has entered into an agreement to borrow moneys; and

(b) the Treasurer is satisfied that the moneys are for use in connection with the purchase by the relevant subsidiary of any of the following aircraft:

- (i) 12 Boeing 737 aircraft;
- (ii) 4 Boeing 727 aircraft;
- (iii) 5 Boeing 767 aircraft,

or in connection with the purchase by the relevant subsidiary of related spare parts and equipment,

the Treasurer may, on behalf of the Commonwealth, at the request of Ansett, and subject to the conditions required by this Act, guarantee—

(c) the repayment of moneys borrowed under the agreement; and

(d) the payment of interest (including any interest on that interest) on moneys so borrowed.

(2) A guarantee or guarantees shall not be given under sub-section (1) in respect of moneys borrowed in the currency of the United States of America, or in any other currency, exceeding in the aggregate \$490,000,000 in the currency of the United States of America.

(3) For the purposes of sub-section (2), the amount of a borrowing in a currency other than the currency of the United States of America shall be taken to be the amount in the currency of the United States of America that was equivalent to the first-mentioned amount at the date of the borrowing, as ascertained by the Reserve Bank of Australia.

(4) The power of the Treasurer to give a guarantee under this section includes—

- (a) a power to agree, on behalf of the Commonwealth, that proceedings under the guarantee may be taken in a court of a country other than Australia; and
- (b) a power to waive, on behalf of the Commonwealth, the immunity of the Commonwealth from suit in a court of a country other than Australia in relation to any proceedings that may be taken under the guarantee in such a court.

#### **Conditions of guarantees**

5. For the purpose of the protection of the financial interests of the Commonwealth, the Treasurer shall not give a guarantee under section 4 in respect of a borrowing by a relevant subsidiary unless—

- (a) the Treasurer is satisfied that the terms and conditions of the borrowing are reasonable;
- (b) where the borrowing consists of, or includes, the issue of instruments—the issue of those instruments, and the form of those instruments, have been approved by the Treasurer;
- (c) appropriate security to the satisfaction of the Treasurer is, or is to be, given to the Commonwealth over the aircraft, spare parts and equipment to which the borrowing relates;
- (d) undertakings to the satisfaction of the Treasurer are given that the goods over which security is, or is to be, taken in accordance with paragraph (c)—
  - (i) will be insured, and kept insured, to their full insurable value against all risks against which it is customary to insure;
  - (ii) will not be sold or made the subject of a mortgage or charge having priority over the security given to the Commonwealth in respect of the guarantee; and
  - (iii) will not be taken out of Australia for a destination that is not in Australia or a Territory except after the giving of such security as the Treasurer requires;

- (e) undertakings to the satisfaction of the Treasurer are given that, so long as the whole or any part of the amount borrowed, or any interest on that amount, remains unpaid—
  - (i) officers of the Australian Public Service will have full access at all reasonable times to the financial accounts of Ansett and of the relevant subsidiary when authorized in writing by the Minister for that purpose; and
  - (ii) Ansett and the relevant subsidiary will do everything within their power to ensure that the officers so authorized have similar access to the financial accounts of any body, whether corporate or unincorporate, in which Ansett or the relevant subsidiary has, at any time, whether directly or indirectly, a controlling interest;
- (f) undertakings to the satisfaction of the Treasurer are given that any legal costs incurred by the Commonwealth in connection with the giving of the guarantee will be met by the relevant subsidiary; and
- (g) such other conditions as the Treasurer thinks necessary are fulfilled.

### **Delegation**

6. (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Department of the Treasury any of his powers or functions under this Act, other than this power of delegation.

(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Treasurer.

(3) A delegate is, in the exercise or performance of a power or function so delegated, subject to the directions of the Treasurer.

(4) A delegation under sub-section (1) does not prevent the exercise of a power or the performance of a function by the Treasurer.