AUSTRALIAN SHIPPING COMMISSION AMENDMENT BILL 1983

Date Introduced: 20 October 1983
House: House of Representatives
Presented by: Hon. Peter Morris, M.P., Minister for Transport

Short Digest of Bill

Purpose

To amend the Australian Shipping Commission Act 1956 in order to improve the management of the Australian Shipping Commission, to provide it with more autonomy in its financial operations, to specify the terms and conditions of employment of Commissioners, to repeal some sections which are redundant and to make machinery amendments.

Background

The Australian Shipping Commission, trading as the Australian National Line, is one of several Commonwealth statutory authorities which operates in the market place. For the most part, however, such authorities have not operated as purely commercial enterprises. On the one hand, they have enjoyed certain advantages over comparable private undertakings, such as benefiting from government guaranteed borrowing and government patronage. On the other hand, they have been restricted in their operations by governmental policy directives and government-imposed financial and employment constraints.

The partial deregulation of the Australian National Line was one of the recommendations of the committee undertaking the Review of Commonwealth Functions (RCF). The present Bill gives effect to several of the RCF recommendations in respect of ANL, especially in the areas of staffing, contracts and the setting of fares and freight rates. It also embodies the recommendation that ANL should develop a corporate plan with the aim of achieving efficiency and commercial viability.

This Bill contains many of the provisions of the Australian Shipping Commission Amendment Bill 1982 which was introduced by the former Minister for Transport and Construction. It subsequently lapsed with the double dissolution of Parliament in early 1983. In a Media
Release, dated 31 August 1983, the Minister for Transport foreshadowed the introduction of the Australian Shipping Commission Amendment Bill 1983. The current Bill differs from the previous Bill in regard to the appointment of Commissioners and the method of determining fares and freight rates. Provision is made for the appointment of a Managing Director, on a full-time basis, who will be the chief executive officer of the Commission. He will also be one of the Commissioners. The 1982 Bill made provision for a General Manager (also a Commissioner) on a part-time basis. The Chairman will be appointed on a part-time basis, instead of a part- or full-time basis as proposed by the 1982 Bill. The Minister, in his Second Reading Speech, stated that this reorganisation "will provide a more appropriate division of control over the affairs of the Commission and be more in line with top management structures adopted in commercial enterprises". [1] With regard to the determination of fares and freight rates, the Commission will be required to determine its fares and freight rates in accordance with principles approved by the Minister. In the previous Bill, the Commission was required to determine the basis for charging, also subject to Ministerial approval.

Main Provisions

By Clause 4, section 8 of the Principal Act is repealed and is replaced by a new section 8 which provides for the Constitution of the Commission. The Commission will comprise 7 Commissioners namely Chairman, Deputy Chairman, Managing Director and 4 other Commissioners. The Managing Director will be appointed on a full-time basis. All other Commissioners will be appointed on a part-time basis. The Minister for Transport will determine the terms and conditions of employment (other than remuneration and allowances) of Commissioners.

Clause 5 repeals sections 8A, 8B, 8C, 9, 10, 11, 12, 13, 13A and 14 of the Principal Act and provides for new replacement sections. The new section 8A will provide for the appointment of Commissioners for a period not greater than 5 years. The proposed sections relating to the appointment of Acting Chairman, Acting Deputy Chairman and Acting Commissioner will provide for these acting appointments not to exceed 12 months. The Managing Director is not to be appointed as either Acting Chairman or Acting Deputy Chairman.

Clause 5 also contains provisions for leave, remuneration, termination of appointment, resignation, disclosure of interests and meetings of the Commission. The clause also enables the Commission to delegate its powers.
Clause 7 will amend section 16 of the Principal Act to allow the Commission to enter into contracts up to the value of $2 million without Ministerial approval. The Commission will require Ministerial approval for financial leases.

Clause 8 repeals sections 17, 17A, 18 and 19 of the Principal Act. Under the new section 17, the Commission will be required to conduct its operations efficiently and in a manner which accords with sound commercial practice. The new section 18 proposes that the Government will no longer be able to direct the Commission to abide by certain policies except where the Minister is satisfied that it is in the public interest to do so. Such directions will have to be tabled in Parliament within seven sitting days. Under the new section 19, the Commission will be entitled to be reimbursed, from the Commonwealth, for the costs associated with complying with the directions.

Clause 8 also provides for new sections 19A and 19B to be inserted into the Principal Act. The provisions of section 19A will require the Commission to determine fares and freight rates in accordance with principles approved by the Minister. The Commission will be able to alter the principles by which it charges for its services or a service, but the alteration will be subject to Ministerial approval.

By the new section 19B, the Commission will be required to undertake corporate planning, which will incorporate objectives, strategies and policies, for the purposes of ensuring that the Commission fulfils its duties on a long-term basis. Any plans which are prepared will be required to be updated at least annually.

Clause 10 repeals sections 22 and 23 of the Principal Act. The new provisions will enable the Commission to determine the terms and conditions of employment of officers appointed by the Commission. Under the new section 23, the Managing Director will be the chief executive officer of the Commission.

Clause 12 repeals section 29 of the Principal Act and the new section 29 will allow the Commission to determine a financial target for each year's operations. The Minister may vary the target and provide reasons for the variation. In addition, the new section makes provision for a review of the financial results of the Commission during the year. Under the new section 29A, the Commission shall recommend to the Minister a dividend for the financial year or propose not to pay a dividend. The Minister may accept
the recommendation or direct the Commission to pay a
dividend of a specified amount.

Clause 14 inserts a new section 31 into the
Principal Act which authorises the Commission to borrow,
with the Treasurer's approval, from non-Commonwealth
sources. The new section 32, also inserted by clause 14,
will allow the Treasurer to guarantee the borrowings and, by
section 32A, enable the Commission to offer as security for
the borrowings the whole or any part of its assets. The
Commission will also be able to offer the Commonwealth
security in return for Commonwealth guarantees.

By clause 15, the Commission, after payment of a
dividend, will be allowed to disburse profits in the manner
it decides.

Under clause 20, the new section 44 will allow the
Minister to request information in relation to the
Commission's operations as the Minister requires.

Remarks

It should be noted that, even though the Bill
should grant the Commission a greater degree of autonomy in
its operations, ANL will still not be fully deregulated. It
will still benefit from government guarantees and will still
be subject to ministerial control of its financial targets
and policy. It will also potentially experience limited
flexibility in determining key financial variables (e.g.
gearing ratios and dividend payout). For example, for
several years, ANL operated with a gearing ratio quite
different from that of a comparable commercial enterprise.
The Government recently injected $90 million into ANL to put
it on a commercial basis with an equity/loan gearing ratio
more closely related to that of its competitors. Any
further need for equity injection must, however, be
determined by the Government and not by the Commission.
Thus, while the Commission will be given a management
structure similar to that of a commercial enterprise it will
still potentially face a degree of intervention in its
operations that would not be experienced by an enterprise in
the private sector.

For further information, if required, contact:

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References
