AUSTRALIAN NATIONAL AIRLINES REPEAL BILL 1981

Date Introduced: 28 May 1981
House: House of Representatives
Presented by: Hon. R.J. Hunt, M.P., Minister for Transport

Short Digest of Bill

Purpose

To repeal the Australian National Airlines Commission Act 1945 and to convert the Australian National Airlines Commission into a public company which is wholly owned by the Commonwealth.

Background

The Australian National Airlines Commission was established by an Act of Parliament in 1945. The Government at the time intended that the Commission would have monopoly control of inter-State air transport. As a result of a High Court challenge, the Commission was denied monopoly control, but was permitted to own and operate an airline. The Commission, operating as Trans-Australia Airlines, began operations in 1946.

Under its present structure, TAA has derived its employable funds from Commonwealth advances and undistributed profits, but has also had to rely heavily on borrowing. As a statutory authority, this borrowing has required Loan Council approval and, until 1980, all borrowing had actually been undertaken by Treasury on behalf of the Commission. As a statutory authority, the Commission was also subject to several Government policies such as those relating to reporting, consultation, appointment of staff, application of funds and superannuation provisions.

In response to the 1979 recommendations of the Domestic Air Transport Policy Review which urged greater competition in the industry, the Government announced a package of proposed legislation in September 1980. As part of this package, the Australian National Airlines Amendment Bill (No. 2) 1980 was introduced on 18 September 1980 and was designed to organise the activities of the Commission along more commercial lines while maintaining its statutory authority status. Under that Bill, the Commission would have been granted more autonomy in the appointment of
officers, the negotiation of contracts, the requesting of further capital from the Commonwealth, the determination of rate of return and dividend policy and the application of funds which were surplus to requirements. The Commission would also have been able to deal in notes, debentures and other securities. The Bill was introduced only hours before Parliament was dissolved and subsequently lapsed.

The present Bill is designed to enable TAA to operate along more commercial lines by converting it into a public company. As a public company, TAA would also be able to deal in securities, borrow without Loan Council approval and be free of various other Government controls, although while the Commonwealth holds a controlling interest, the Company may still reflect Government policy. Qantas Airways Ltd., itself a wholly Government owned public company, operates according to Government directives and, in the past, Treasury has undertaken to borrow on its behalf. With the Government as sole shareholder, any attempt by TAA to achieve a commercial gearing ratio will require the Company to request funds from the Commonwealth.

By converting TAA to a public company, the Commonwealth would have the preconditions for selling all or part of the shares in the Company. This possibility is to be assessed by a group of consultants. Areas which would require attention prior to public involvement in the Company would be the question of TAA's superannuation liabilities under the Commonwealth Superannuation scheme and the question of its loss-making rural services.

The Government has pledged that if TAA were sold, care would be taken to ensure that a monopoly airline did not result. The implications of the sale of TAA for the future of the Airlines Agreement are unclear. Mr. Rupert Murdoch, an Ansett executive, is quoted as saying that "if normal commercial disciplines applied to both competitors", the Two Airlines Policy would not be needed.

For further information see the Minister's Second Reading Speech to the present Bill and Digests of the Australian National Airlines Amendment Bill (No. 2) 1980 and the Airlines Agreement Bill 1981.

Main Provisions

Clause 3 repeals the Australian National Airlines Act 1945 as amended.

Clause 5 instructs the Minister to nominate in the Gazette, a body corporate that is a public company incorporated in the A.C.T., in which the Commonwealth is the
owner of all share capital and to which the assets and liabilities of the Australian National Airlines Commission shall be transferred.

Clause 2 relates to the commencement of the Act. Provisions relating to the establishment of a public company will commence on the day on which Royal Assent is given. The remaining provisions will commence by Proclamation when all the issued share capital of the new company is owned by the Commonwealth.

Clause 6 provides that on the proclaimed commencing day, all rights, property, debts, liabilities and obligations of the Commission will be transferred to the Company except for certain obligations to which the Commission will still be subject during a transition period when it will co-exist with the new Company until finally abolished under the provisions of sub-clause 12(16).

Sub-clauses 6(5) and 6(6) transfer the Commission's superannuation liability to the new Company and allow the Company to seek approved authority status for the purpose of continuing Commonwealth superannuation membership for employees. Since TAA and the Commonwealth are presently negotiating the matter of TAA's accumulated actuarial liability, the operation of these clauses is provisional on any agreement made before the proclaimed commencing day.

Clause 9 generally provides that staff who enter the employ of the Company on the commencing day shall be employed on the same terms and conditions as when employed by the Commission immediately before that day.

Clause 12 details the functions and obligations of the Commission during the transition period between the transfer of the majority of its functions to the Company and its eventual abolition. Conversely, the obligations of the Company to provide staff and moneys required by the Commission to perform its transitional functions are set out in sub-clauses 12(11) to 12(15).

Clause 13 allows the Treasurer to provide loan guarantees for borrowings arranged by the Commission before the proclaimed commencing day.

Clause 14 allows for the continuation of income tax benefits and obligations despite the transfer of functions to a new Company.

For further information, if required, contact:

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11 August 1981