

AIR TRANSPORT (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Air Transport Act 1964 so as—

- (a) to remove certain limitations on the granting of air passenger licences in order that more than one licence may be granted in respect of any one route;
- (b) to provide that licences be granted in respect of operators and routes rather than in respect of operators, aircraft and routes;
- (c) to replace the Air Licensing Advisory Committee with an Air Transport Council;
- (d) to enable Australian Airlines to make an application for an intrastate passenger licence;
- (e) to provide that operators of air freight services will no longer require licences; and
- (f) to provide that application and licence fees are to be determined by the Air Transport Council (with the concurrence of the Minister).

The Bill also provides for the repeal of certain related provisions of the Transport Act 1930 and makes other amendments of a minor, consequential or ancillary nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act, with one exception, shall commence on the date of assent to the Act. The provision enabling Australian Airlines to apply for an intrastate passenger licence is to commence on a day to be proclaimed.

Clause 3 states that the Air Transport Act 1964 is referred to in the proposed Act as the Principal Act.

Clause 4 is a formal provision that gives effect to a Schedule of amendments to the Principal Act.

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Clause 5 repeals 2 provisions of the Transport Act 1930, one relating to the payment from a fund under that Act of administrative expenses in respect of the Air Transport Act 1964, and the other relating to the determination of fees payable under the Air Transport Act 1964.

Clause 6 gives effect to a Schedule of transitional provisions.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

Schedule 1 (1) (a) and (b) amend the definitions in section 2 of the Principal Act consequent on the replacement of the Air Licensing Advisory Committee by the Air Transport Council.

Schedule 1 (1) (c) omits the definition of "goods" consequent on the proposed deregulation of air freight services.

Schedule 1 (1) (d) omits a provision relating to the determination under the Transport Act 1930 of air transport licence fees.

Schedule 1 (2) omits provisions relating to the establishment and functions of the Air Licensing Advisory Committee and inserts instead provisions relating to the constitution and functions of an Air Transport Council. The Council is to comprise 5 members, one having knowledge of the air industry, one representing the Minister for Transport, one representing consumers, one representing the Minister for Tourism and one being the Secretary of the Ministry of Transport.

Schedule 1 (3) (a)–(d) amends section 3 of the Principal Act (which contains the licensing requirements) so as to—

- (a) require operators and routes to be licensed rather than operators, aircraft and routes; and
- (b) remove the requirement for operators of air freight services to be licensed.

Schedule 1 (3) (e) is a consequential amendment.

Schedule 1 (4) inserts into the Principal Act a proposed section 3A which provides that section 19A of the Commonwealth Australian National Airlines Act 1945 is adopted for the purposes of the Principal Act. By virtue of the Commonwealth Act the proposed section will allow Australian Airlines to apply for an intrastate passenger licence in New South Wales. The section is to commence on a day to be proclaimed.

Schedule 1 (5) is a consequential amendment.

Schedule 1 (6) (a) provides for applications for licences to be lodged at the office of the Ministry of Transport instead of at the office of the Commissioner for Motor Transport.

Schedule 1 (6) (b) provides for the payment of an application fee as determined by the proposed Air Transport Council (with the concurrence of the Minister), instead of a fee determined under the Transport Act 1930.

Schedule 1 (6) (c) and (d) remove certain provisions relating to applications for licences in respect of aircraft and in respect of air freight services.

Schedule 1 (7) amends section 6 of the Principal Act (consideration by the Minister of applications for licences).

Schedule 1 (7) (a) removes a provision relating to the licensing of air freight services.

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Schedule 1 (7) (b)–(d) removes provisions which require the Minister to have regard to the alternative transport services (air and otherwise) available when dealing with an application for a licence (the intention is to remove any bar on the Minister granting more than one licence in respect of any particular route).

Schedule 1 (7) (e) relates to the licensing of operators and routes rather than operators, aircraft and routes.

Schedule 1 (7) (f) inserts additional matters to which the Minister must have regard when dealing with applications for licences. These include whether the operator has adequate insurance, the ownership of the aircraft to be used and the extent of the applicant's rights to operate the aircraft.

Schedule 1 (8) substitutes section 7 of the Principal Act (licences). The principal changes to the section are that—

- (a) licences will be able to be granted for periods longer than 1 year; and
- (b) in respect of regular air services (that is, mainly air services operating in accordance with fixed schedules over a particular route), a licence fee determined by the Air Transport Council (with the concurrence of the Minister) will be payable over the term of the licence. This fee will be in addition to the application fee.

Schedule 1 (9) is a consequential amendment.

Schedule 1 (10) inserts into the Principal Act proposed section 10 which provides that determinations by the Air Transport Council of application or licence fees shall be by order published in the Gazette. The fees may be determined by reference to specified factors or may differ in their application by reference to specified exceptions or factors.

Schedule 1 (11) amends section 11A of the Principal Act (delegation) so as to enable delegation of the Minister's functions to the Air Transport Council instead of to the Commissioner for Motor Transport.

Schedule 1 (12) (a) enables the making of regulations for or with respect to the determination and payment of application fees and licence fees.

Schedule 1 (12) (b) is a consequential amendment.

Schedule 1 (12) (c) inserts proposed section 13 (4) into the Principal Act. This is a standard provision authorising the making of regulations of limited, or different, application etc.

Schedule 1 (13) repeals a schedule relating to the members etc., of the Air Licensing Advisory Committee and inserts instead 2 proposed schedules, one relating to the members of the Air Transport Council and the other relating to its procedure.

SCHEDULE 2—TRANSITIONAL PROVISIONS

Schedule 2 contains transitional provisions. Generally, the provisions permit air passenger licences now in force to continue in force until a new licence has been applied for and granted under the amended provisions.
