

## LOAN (QANTAS EMPIRE AIRWAYS LIMITED).

### No. 72 of 1958.

An Act to approve the raising by way of Loan of Moneys in the Currency of the United States of America to be lent to Qantas Empire Airways Limited, and for purposes connected therewith.

[Assented to 10th October, 1958.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

**Short title.**

1. This Act may be cited as the *Loan (Qantas Empire Airways Limited) Act 1958.*

**Commencement.**

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

**Interpretation.**

3.—(1.) In this Act—

“ the Loan Agreement ” means the agreement between the Commonwealth and The Chase Manhattan Bank, whose principal office is in the City of New York in the United States of America, a copy of which is set out in the First Schedule to this Act, as varied by the document a copy of which is set out in the Second Schedule to this Act ;

“ the Qantas Agreement ” means the agreement between the Commonwealth and Qantas Empire Airways Limited referred to in the Loan Agreement.

(2.) For the purposes of this Act, the promissory notes delivered by the Commonwealth under the Loan Agreement shall be deemed to form part of the Loan Agreement.

**Approval of borrowing.**

4. The borrowing by the Treasurer, on behalf of the Commonwealth, in accordance with the Loan Agreement, of moneys in the currency of the United States of America not exceeding in the whole Thirteen million dollars is approved.

**Application of moneys.**

5.—(1.) The Treasurer shall, on behalf of the Commonwealth, in accordance with the Qantas Agreement, lend to Qantas Empire Airways Limited amounts equivalent to the moneys borrowed under the Loan Agreement.

(2.) The moneys required for the purpose of loans under the last preceding sub-section are payable out of the Loan Fund, which is to the necessary extent appropriated accordingly.

6. In the event of any moneys being required for the purpose of the making by the Commonwealth of a payment to The Chase Manhattan Bank under the Loan Agreement in respect of a liability for principal or interest that has not been discharged by a payment to that Bank by Qantas Empire Airways Limited in accordance with the Qantas Agreement, the moneys so required shall be paid out of the Consolidated Revenue Fund.

Payments in respect of principal and interest.

7. The expenses of borrowing under the Loan Agreement, and commitment fee and charges, other than interest, payable by the Commonwealth under the Loan Agreement, shall be paid out of the Consolidated Revenue Fund.

Expenses and charges.

8. The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of the last two preceding sections.

Appropriation of Consolidated Revenue Fund.

9. The *National Debt Sinking Fund Act 1923-1950* does not apply in relation to moneys borrowed under the Loan Agreement.

National Debt Sinking Fund Act not to apply.

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## THE SCHEDULES.

### FIRST SCHEDULE.

### Section 3.

LOAN AGREEMENT dated June 17, 1958 between COMMONWEALTH OF AUSTRALIA ("the Commonwealth") and THE CHASE MANHATTAN BANK ("Chase").

The Commonwealth has requested Chase to make advances to it for the purpose of enabling the Commonwealth to make available to Qantas Empire Airways Limited ("Qantas") amounts in United States dollars ("dollars") required by Qantas to pay the purchase price of five Lockheed Electra aircraft and related spare parts and equipment. Upon the terms hereof Chase is prepared to make advances for such purpose. Accordingly, the parties agree as follows— :

§1. On the terms hereof Chase will make advances to the Commonwealth at the latter's request, from time to time from the date hereof until December 31, 1959, up to an aggregate amount of \$13,000,000. The obligation of Chase to make advances up to such amount is called Chase's "commitment" and the aggregate of all the advances made to the Commonwealth is called "the Loan". Each advance will be in the amount of \$1,000,000 or a multiple thereof. The Commonwealth will repay the Loan, in dollars, in ten equal semi-annual instalments. The first instalment will be due and payable June 30, 1960 and a subsequent instalment will be due and payable on the last day of each December and June thereafter until the amount of the Loan has been repaid. So much of the Loan as is to be repaid by the first six instalments will bear interest at the rate of 4½% per annum and the remainder of the Loan will bear interest at the rate of 4¼% per annum. The Commonwealth will pay interest on the amount of the Loan for the time being outstanding, in dollars, semi-annually on the last day of June and December in each year until the Loan is repaid.

§2. The Commonwealth will give Chase at least five business days notice of the date on which any advance is required and the amount of the advance required. On the date on which each advance is required Chase will make the amount of the advance available to the Commonwealth, either by credit to such account on Chase's books as the Commonwealth designates or by Chase's check in New York Clearing House funds, as the Commonwealth elects. On the date on which the first advance is required, Chase will open in its books a loan account in the name of the Commonwealth ("the Loan Account") and will debit to the Loan Account the amount of each advance as and when it is made. The Commonwealth will promptly make the proceeds of each advance available to Qantas pursuant to the Qantas Agreement referred to in §6.A.

FIRST SCHEDULE—*continued.*

§3. Semi-annually on the last day of June and December in each year, the Commonwealth will pay interest on the debit balance from time to time appearing on the Loan Account at the rate of  $4\frac{1}{2}\%$  per annum on 60% of such debit balance from time to time and at the rate of  $4\frac{1}{2}\%$  per annum on 40% of the debit balance from time to time, both rates being computed on the daily average of the amount of the debit balance on the basis of a year of 360 days. As evidence of the Loan the Commonwealth will, on or before December 31, 1959, deliver to Chase two promissory notes of the Commonwealth ("the Notes"), duly executed by the Treasurer of the Commonwealth and by any person at the time Consul General, Acting Consul General or Consul of the Commonwealth in New York City. Each of the Notes will be substantially in the form of Exhibit A hereto and appropriately completed in accordance with §1. One of the Notes will evidence so much of the Loan as is to be repaid by the first six instalments and the other will evidence so much of the Loan as is to be repaid by the remaining four instalments. Upon delivery of the Notes, the Loan Account will be closed and no further interest will be payable by the Commonwealth in respect of the Loan Account.

§4. The Commonwealth represents, warrants and agrees that the principal of and interest on the Loan will be free of all present or future taxes imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that the right to receive payment of the principal of or interest on the Loan is or comes to be beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

§5. The Commonwealth represents and warrants that there has been no material adverse change in the financial, economic or political conditions of the Commonwealth from the conditions set forth in the Prospectus dated April 22, 1958 relating to the Commonwealth's Fifteen Year  $4\frac{1}{2}\%$  Bonds Due May 1, 1973.

§6. Chase's obligation to make each advance to the Commonwealth is subject to the performance by the Commonwealth of all its obligations under this agreement, to the accuracy of its representations and warranties herein contained, and to the satisfaction on the date of such advance of the following further conditions:

A. There shall then be in force, and before the first advance Chase shall have received an executed duplicate of, an agreement between the Commonwealth and Qantas ("the Qantas Agreement"), in a form satisfactory to Chase, which shall include provisions to the effect that (i) upon receiving the proceeds of each advance hereunder the Commonwealth will promptly lend to Qantas an amount in dollars equal to the amount of such advance; (ii) payments of principal of and interest on the loans to Qantas will be due on dates and in amounts corresponding to the dates and amounts of the payments due on the Loan; and (iii) Qantas agrees with the Commonwealth, for the benefit of Chase, that on each date when an amount of principal and/or interest is due on the Loan Qantas will pay such amount, in dollars, directly to Chase for application in payment of the corresponding principal of and/or interest on the Loan, such payment by Qantas to discharge, *pro tanto*, its obligations to the Commonwealth. Chase hereby agrees that each such payment received by Chase from Qantas will be promptly applied by Chase on the Loan and, when applied, will discharge, *pro tanto*, the obligations of the Commonwealth in respect of the Loan.

B. Before the first advance Chase shall have received an opinion of the Solicitor-General or Acting Solicitor-General of the Commonwealth, in a form satisfactory to Chase, to the effect that (i) the Loan and the Notes have been duly authorized in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable thereto; (ii) the Notes, when signed by the Treasurer of the Commonwealth and an Authorized Representative and delivered in accordance herewith, will constitute valid, binding, absolute and unconditional obligations of the Commonwealth, for the performance of which the full faith and credit of the Commonwealth is pledged; and (iii) this agreement has been duly authorized and executed in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable hereto and all the provisions hereof are valid and binding as against the Commonwealth.

C. All legal matters relative to each advance, the Notes and the Qantas Agreement shall be satisfactory to Chase's counsel, Messrs. Milbank, Tweed, Hope & Hadley, and to such Australian counsel as they may consult.

§7. The Commonwealth will pay to Chase, in dollars, commitment fee computed at the rate of  $\frac{1}{2}$  of 1% per annum (on the basis of a year of 360 days), for the period from May 15, 1958 to December 31, 1959, on the daily average amount of Chase's commitment which has not been advanced to the Commonwealth. Accrued commitment fee will be paid on the last day of June and December in each year.

FIRST SCHEDULE—*continued*.

§8. The Commonwealth agrees that, from the date hereof until the payment in full of the Loan— :

A. If the Commonwealth sells, offers for public subscription or in any manner disposes of any bonds or loans constituting external debt of the Commonwealth secured by lien on any revenue or asset of the Commonwealth, the Loan and the Notes will be secured equally and ratably therewith and the Commonwealth will make appropriate provision to that end, where necessary.

B. From time to time, at the request of Chase, the Commonwealth will promptly deliver to Chase copies of all reports and other documents filed by the Commonwealth with the United States Securities and Exchange Commission.

C. Chase may accept and rely upon requests for advances, notices or other communications from the Commonwealth, relative to the transactions hereby contemplated, if signed by any person at the time Consul General, Acting Consul General or Consul of the Commonwealth in New York City.

§9. If any principal of or interest on the Loan or any Note is not paid when due or if the Notes are not duly delivered in accordance with §3, and if any such default continues for ten days, Chase may, by written notice mailed to the Commonwealth, addressed to it at The Commonwealth Treasury, Canberra, Australia, declare the entire principal amount of the Loan and each Note, and accrued interest thereon, to be, and the same will become, forthwith due and payable.

§10. The Commonwealth will reimburse Chase for its out-of-pocket expenses (including counsel fees) in connection with this agreement and the advances hereunder.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed as of the date first above written.

COMMONWEALTH OF AUSTRALIA

By Jos. Francis

Australian Consul General at New York

THE CHASE MANHATTAN BANK

By J. P. Mitchell

Vice President

## EXHIBIT A

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New York, N.Y.

December 31, 1959

For value received, COMMONWEALTH OF AUSTRALIA ("the Commonwealth") hereby promises to pay to the order of THE CHASE MANHATTAN BANK ("the Payee"), at the Payee's principal office at 18 Pine Street, New York, N.Y., the principal sum of \$ [insert 60% or 40% of the Loan, as the case may be], in lawful money of the United States of America, by [insert six or four, as the case may be] semi-annual instalments of \$ [insert 1/6th or 1/4th, as the case may be, of the principal sum] each. The first semi-annual instalment shall be payable on June 30, [insert 1960 or 1963, as the case may be] and a subsequent semi-annual instalment shall be payable on the last day of each December and June thereafter until the principal sum is paid in full.

The Commonwealth also hereby promises to pay interest on so much of said principal sum as is from time to time unpaid, from the date hereof, in like money, at said office, semi-annually on the last day of June and December in each year, at the rate of [insert 4½ or 4¼, as the case may be] % per annum.

This note is one of the Notes referred to in the Loan Agreement dated June 17, 1958 between the Commonwealth and the Payee and is entitled to the benefits therein provided. Upon the terms provided in such Loan Agreement the principal hereof and accrued interest hereon may become payable prior to stated maturity.

The principal hereof and interest hereon will be paid free of all taxes now or at any time hereafter imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that this note is beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

COMMONWEALTH OF AUSTRALIA

By .....  
Treasurer of the Commonwealth of  
Australia

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No. 72. *Loan (Qantas Empire Airways Limited).* 1958.

SECOND SCHEDULE.

Section 3.

THE CHASE MANHATTAN BANK  
NEW YORK

June 17, 1958

Commonwealth of Australia  
Australian Consulate-General  
636 Fifth Avenue  
NEW YORK 20, N.Y.

Attention of Sir Josiah Francis, Consul-General

Gentlemen:

We refer to our Loan Agreement with you, dated June 17, 1958, in which it is provided in the third sentence of Section 1, that each advance will be in the amount of \$1,000,000 or a multiple thereof. In the interest of simplifying the computations involved in making these advances, we should appreciate your agreeing with us that instead of \$1,000,000, each advance shall be in the amount of \$1,300,000.

If this change is acceptable to you, kindly so indicate by signing and returning to us the attached copy of this letter.

With many thanks,  
Sincerely yours,  
J. P. MITCHELL  
Vice President

Enc.

Agreed:

COMMONWEALTH OF AUSTRALIA  
By Jos. Francis  
Australian Consul General at New York

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