

LOAN (AUSTRALIAN NATIONAL
AIRLINES COMMISSION).

No. 71 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 the Australian National Airlines Commission, and for purposes connected therewith.

[Assented to 10th October, 1958.]

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

1. This Act may be cited as the *Loan (Australian National Airlines Commission) Act 1958*. Short title.

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

No. 71. *Loan (Australian National Airlines Commission)*. 1958.

- Interpretation.** 3.—(1.) In this Act, “the Loan Agreement” means the agreement entered into between the Commonwealth and various lenders in the United States of America a copy of which is set out in the Schedule to this Act.
- (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 Three million dollars is approved.
- Application of moneys.** 5.—(1.) For the purpose of making available to the Australian National Airlines Commission moneys required by the Commission in connexion with the purchase by the Commission of a Lockheed Electra aircraft and related spare parts and equipment, the Treasurer shall, on behalf of the Commonwealth, lend to the Commission, upon such terms and conditions as he determines, 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.
- Expenses and charges.** 6. The expenses of borrowing, and interest and other charges payable, under the Loan Agreement, shall be paid out of the Consolidated Revenue Fund.
- Repayment of loan moneys.** 7. Moneys borrowed under the Loan Agreement shall be repaid out of the Consolidated Revenue Fund in accordance with the provisions of the Loan Agreement.
- Appropriation of Consolidated Revenue Fund.** 8. The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of the last two preceding sections.
- National Debt Sinking Fund Act not to apply.** 9. The *National Debt Sinking Fund Act* 1923–1950 does not apply in relation to moneys borrowed under the Loan Agreement.

THE SCHEDULE.

Section 3.

LOAN AGREEMENT dated September 10, 1958 between Commonwealth of Australia (the “Commonwealth”), the banks named in Section 1 hereof (the “Banks”) and J. P. Morgan & Co. Incorporated, as Agent (the “Agent”).

The Commonwealth has requested the Banks to make loans to it for the purpose of enabling the Commonwealth to make available to The Australian National Airlines Commission trading as Trans-Australia Airlines (“Trans-Australia”) amounts in United States dollars (“dollars”) required by Trans-Australia to finance approximately 75% of the purchase price of one Lockheed Electra aircraft and related spare parts and equipment. Upon the terms hereof the Banks are prepared to make loans for such purpose. Accordingly, the parties agree as follows:

1958. *Loan (Australian National Airlines Commission)*. No. 71.

THE SCHEDULE—*continued*.

SECTION 1. Subject to the provisions of this Agreement each Bank agrees to make loans to the Commonwealth at the latter's request, from time to time from the date hereof until June 30, 1959, in an aggregate amount not exceeding the amounts set forth below opposite its name:

Bank of America National Trust & Savings Assn.	300 Montgomery Street, San Francisco 20, California	\$1,062,500
The Cleveland Trust Company	Euclid Avenue, Cleveland 1, Ohio	375,000
The First National City Bank of New York	55 Wall Street, New York 15, New York	1,062,500
J. P. Morgan & Co. Incorporated	23 Wall Street, New York 8, New York	500,000
		\$3,000,000

The loans to be made by the Banks pursuant to this Section (the "Loans") will be evidenced by Promissory Notes (the "Notes") of the Commonwealth, 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 (appropriately completed in accordance with this Section), will be dated the date of the Loan which it evidences, will be payable in dollars in ten equal semiannual instalments on June 30 and December 31 of each year, commencing December 31, 1959 and ending June 30, 1964, and will bear interest at the rate of 4½% per annum on the unpaid balance from time to time thereof from the date thereof to the date of payment. The Commonwealth will pay interest on the Notes, in dollars, semiannually on the last day of June and December in each year. Interest is to be computed on the basis of a year of 365 days.

SECTION 2. Each borrowing by the Commonwealth will be in the amount of \$750,000 or multiple thereof and will be divided among the Banks pro rata to their commitments. The Commonwealth will give to the Agent at least seven business days' written or telegraphic notice of the date on which any Loan is required and the amount of such Loan. The Agent will give at least three business days' written or telegraphic notice to each Bank of such date and of the proportionate amount of the Loan to be made by such Bank.

SECTION 3. Payments of principal and interest on the Notes will be made to the Agent, at its office at 23 Wall Street, New York 8, New York, in dollars in Federal Reserve Funds for the account of the holders of the Notes pro rata to the principal amount for the time being of the Notes held by them. All payments of commitment fees pursuant to this Agreement will be made to the Agent in dollars for the account of the Banks pro rata to their commitment.

SECTION 4. The Commonwealth represents, warrants and agrees that the principal of and interest on the Notes 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 any Note is or comes to be beneficially owned by any person residing in or ordinarily a resident of the Commonwealth.

SECTION 5. The Commonwealth represents and warrants (a) 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 4½% Bonds Due May 1, 1973; and (b) that the proceeds of the Loans will be made available to Trans-Australia to enable Trans-Australia to finance approximately 75% of the purchase price of one Lockheed Electra aircraft and related spare parts and equipment.

SECTION 6. The obligation of each Bank to make each Loan hereunder 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 Loan of the following further conditions:

(a) The Agent shall have received a Note to such Bank in the amount of the Loan by such Bank;

No. 71. *Loan (Australian National Airlines Commission)*. 1958.

THE SCHEDULE—*continued*.

(b) Before the first Loan the Banks shall have received a certified copy of an opinion of the Solicitor-General or Acting Solicitor-General of the Commonwealth, in a form satisfactory to the Banks, to the effect that (i) the Loans 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 by a person referred to in Section 1 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; and

(c) All legal matters relating to each Loan, and the Notes shall be satisfactory to counsel for the Banks, Messrs. Davis Polk Wardwell Sunderland & Kiendl, and to such Australian counsel as they may consult.

SECTION 7. The Commonwealth will pay to the Agent, in dollars, a commitment fee computed at the rate of $\frac{1}{4}$ of 1% per annum (on the basis of a year of 365 days), in respect of the period from July 25, 1958 to June 30, 1959 on the daily average unused amounts which the Banks were obligated to lend under Section 1 hereof. The accrued portion of such commitment fee will be paid on December 31, 1958 and on June 30, 1959.

SECTION 8. The Commonwealth agrees that, from the date hereof until the payment in full of the Loans:

(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 Loans 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 any Bank, the Commonwealth will promptly deliver to such Bank copies of all reports and other documents filed by the Commonwealth with the United States Securities and Exchange Commission; and

(c) The Banks 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.

SECTION 9. If any principal or interest on any Note is not paid when due, and if any such default continues for ten days, the Agent, by written notice mailed to the Commonwealth, addressed to The Commonwealth Treasury, Canberra, Australia, shall if requested in writing by any of the Banks, declare the entire principal amount of each Note, and accrued interest thereon, to be, and the same will become, forthwith due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived. Simultaneously with the giving of any such notice to the Commonwealth, the Agent will notify all holders of the Notes thereof.

SECTION 10. Each of the Banks and each subsequent holder of Notes by its acceptance thereof, irrevocably authorizes the Agent to receive all payments of principal of and interest on the Notes and all commitment fees, as provided in Sections 3 and 7, and to take all other action delegated to it hereunder or reasonably incidental thereto. Neither the Agent nor any of its directors, officers or employees shall be liable for any action taken or omitted in the absence of negligence or wilful misconduct. The Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with it. The Agent shall promptly notify the Commonwealth of any such notice received by it.

SECTION 11. The Commonwealth will reimburse the Agent and the Banks for their out-of-pocket expenses (including counsel fees) in connection with this Agreement and the loans hereunder.

1958. *Loan (Australian National Airlines Commission).* No. 71.

THE SCHEDULE—*continued.*

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

BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSN.
By V. C. RICHARDS V.P.

THE CLEVELAND TRUST COMPANY
By GEO. F. PRYOR V.P.
and WM. SERNE JR. A.V.P.

THE FIRST NATIONAL CITY BANK OF NEW YORK
By EDWIN THORNE V.P.

J. P. MORGAN & Co. INCORPORATED
By J. DELAFIELD DUBOIS V.P.

J. P. MORGAN & Co. INCORPORATED, as Agent
By J. DELAFIELD DUBOIS V.P.

EXHIBIT A

§ New York, N.Y.

For value received, COMMONWEALTH OF AUSTRALIA (" the Commonwealth ") hereby promises to pay to the order of _____, at the principal office of J. P. Morgan & Co. Incorporated (the " Agent "), at 23 Wall Street, New York, N.Y., the principal sum of \$ _____ in lawful money of the United States of America, by ten semi-annual instalments of \$ _____ each. The first semi-annual instalment shall be payable on December 31, 1959 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 4½% per annum.

This note is one of the Notes referred to in the Loan Agreement dated _____, 1958 between the Commonwealth, the Agent, and certain banks named therein 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