

Chapter 244.
National Airline Commission Act 1973.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 244.

National Airline Commission Act 1973.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

National Airline Commission Act 1973,

Being an Act to provide for the establishment of a National Airline Commission and the operation of national airline services, and for related purposes.

PART I. – PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**the Australian nominees**” means—

- (a) Qantas Airways Limited; and
- (b) the Australian National Airlines Commission trading as Trans-Australia Airlines;

“**the Commission**” means the National Airline Commission established by Section 3;

“**the Company**” means Ansett Transport Industries Limited, a company incorporated in Victoria, Australia, and includes its successors and assigns;

“**the General Manager**” means the General Manager of the Commission appointed under Section 19;

“**the National Airline**” means the airline established by the Commission under Section 13;

“**paid-up capital**” does not include loan funds or other borrowings;

“**this Act**” includes any regulations and by-laws made under this Act.

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2. APPLICATION TO THE STATE.

This Act binds the State.

PART II. – THE NATIONAL AIRLINE COMMISSION.

3. ESTABLISHMENT OF THE COMMISSION.

(1) A National Airline Commission is hereby established.

(2) The Commission—

(a) is a corporation with perpetual succession; and

(b) shall have a seal; and

(c) subject to this Act, may acquire, hold and dispose of property; and

(d) may sue and be sued in its corporate name.

(3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and shall presume that it was duly affixed.

4. CONSTITUTION OF THE COMMISSION.

¹The Commission shall consist of—

(a) six members appointed by the Head of State, acting on advice; and

(b) the Departmental Head of the Department responsible for treasury matters.

5². [REPEALED.]

6. TERMS AND CONDITIONS OF EMPLOYMENT.

³The members of the Commission shall hold office during the pleasure of the Head of State, acting on advice, and on such conditions as are determined by the Head of State, acting on advice.

7. LEAVE OF ABSENCE.

The Minister may grant leave of absence to a member of the Commission on such terms and conditions as he determines.

8. CHAIRMAN OF THE COMMISSION.

⁴The Minister shall appoint one of the members of the Commission appointed under Section 4(a) to be the Chairman and one to be Vice Chairman.

¹ Section 4 replaced by No. 55 of 1983, s1; repealed and replaced by *National Airline Commission (Amendment) Act* 1986 (No. 34 of 1986), s1.

² Section 5(1) replaced by No. 30 of 1978, s2; Section 5 repealed and replaced by *National Airline Commission (Amendment) Act* 1986 (No. 34 of 1986), s2; Section 5 repealed by No. 34 of 1986.

³ Section 6 repealed and replaced by *National Airline Commission (Amendment) Act* 1986 (No. 34 of 1986), s3.

9. OATH AND AFFIRMATION OF OFFICE.

(1) Before entering on the duties of his office, a member of the Commission shall take an oath or make an affirmation in the form in Schedule 1.

(2) The oath or affirmation shall be taken or made before the Minister or a person appointed by the Minister for the purpose.

10⁵. [REPEALED.]**11. MEETINGS OF THE COMMISSION.**

(1) The Commission shall meet not less than once in any period of three months at such times and places as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.

(2) The Chairman shall—

(a) on receipt of a written request signed by not less than three members; or

(b) at the direction of the Minister,

call a meeting of the Commission on not less than seven clear days' notice to all members.

(3) The Chairman may, with the agreement of all members, reduce the period of notice required under Subsection (2).

(4) At a meeting of the Commission—

(a) four members are a quorum; and

(b) the Chairman or, in his absence, the Vice-Chairman shall preside; and

(c) where the Chairman and Vice-Chairman are both absent the members present shall elect one of their own number to preside; and

(d) all matters shall be decided by a majority of the votes of the members present and voting; and

(e) the person presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(5) The General Manager shall, wherever possible, attend all meetings of the Commission.

(6) Where the General Manager is not a member he shall, if the Commission so directs, retire from a meeting of the Commission.

(7) The Commission shall cause minutes of its meetings to be kept, and forward copies to the Minister.

⁴ Section 8 replaced by No. 55 of 1983, s2; amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s4.

⁵ Section 10 repealed by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s5.

(8) Subject to this Act, the procedures of the Commission are as determined by the Commission.

12. DISCLOSURE OF INTEREST.

(1) A member of the Commission who is directly or indirectly interested in a contract made or proposed to be made by the Commission, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Commission, and the member—

- (a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to the contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

(3) Subsection (1) does not apply in relation to—

- (a) a contract between a member and the Commission for the carriage of the member or another person or of any goods; or
- (b) a member representing—
 - (i) either of the Australian nominees; or
 - (ii) the Company,

in the case of a contract between the Commission and the Australian nominees (or either of them) or the Company.

PART III. – POWERS AND FUNCTIONS OF THE COMMISSION.**13. FUNCTIONS OF THE COMMISSION.**

(1)⁶ ⁷Subject to Section 45, the functions of the Commission are–

- (a) to establish a National Airline; and
- (b) to transport passengers and goods for reward by air; and
- (c) to transport mail; and
- (d) to engage in other activities to the extent that they are within the limits of the powers of the Commission under a provision of this Act other than this section; and
- (e) to provide, for reward, aviation services and such other related services as can conveniently be provided by the use of the resources of the Commission; and
- (f)⁸ carry out the policy of the National Executive Council as directed from time to time; and
- (g)⁹ prepare an annual financial report for the Minister for presentation to the Parliament,

and the Commission shall carry on business for the purpose of performing those functions.

(2)¹⁰ ¹¹Subject to Section 45, the Commission shall, with full regard to safety, efficiency and economy of operation, pursue a policy directed towards making a profit in each financial year.

14. GENERAL POWERS OF THE COMMISSION.

¹²Subject to Section 45, the Commission has power to carry on all such activities as appear to it to be necessary or convenient for it to carry on for or in connection with the performance of its functions, and in particular it may–

- (a) transport passengers and goods, for reward, by air, by land, or by sea or partly by air and partly by land or sea–
 - (i) between places within Papua New Guinea; and
 - (ii) between Papua New Guinea and any other country; and
 - (iii) between and within countries other than Papua New Guinea; and

⁶ Section 13(1) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s6(a).

⁷ Section 13(1) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s6(a).

⁸ Section 13(1)(f) inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s6(aa).

⁹ Section 13(1)(g) inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s6(aa).

¹⁰ Section 13(2) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s6(b).

¹¹ Section 13(2) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s6(b).

¹² Section 14 amended by No. 30 of 1978, s3; amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s7.

- (b) provide, for reward, any service that involves the use of aircraft or other means of transport; and
- (c) establish, maintain and operate, or enter into arrangements with any person for or in connection with the establishment, maintenance and operation of, accommodation and related facilities; and
- (ca) establish, maintain and operate, or enter into arrangements with any person for or in connection with the establishment, maintenance and operation of, offices and related facilities in any country; and
- (cb) seek registration by any appropriate authority in any country for the purpose of carrying out any of its functions under this Act; and
- (d) enter into arrangements with any person for or in relation to the transport of passengers and goods—
 - (i) between places within Papua New Guinea; and
 - (ii) between Papua New Guinea and any other country; and
 - (iii) between and within countries other than Papua New Guinea; and
- (e) enter into arrangements with any person for the hire to that person, or another person, of its facilities, equipment or services when not required for immediate use by the Commission; and
- (f) enter into any agreement with the State for the transport of mails by air or land; and
- (g) enter into an agreement for the carrying out of any work or provision of any service that the Commission is, by this Act or any other law, authorized to carry out or provide; and
- (h) enter into arrangements for, or participate in, the formation of a company; and
- (i) subscribe for or otherwise acquire and dispose of shares in a company; and
- (j) enter into a partnership or an arrangement for the sharing of profits; and
- (k) manufacture, repair, purchase, sell, hire, lease or otherwise deal in—
 - (i) all types of aircraft; and
 - (ii) all component parts, fittings and accessories of aircraft and motor vehicles; and
- (l) enter into arrangements with the State or a public body for the purpose of obtaining any licences, rights, privileges and concessions; and
- (m) enter into an agreement to adequately insure the General Manager, its officers and employees against injury or death occasioned in the course of their employment with the Commission; and

- (n) do all things that are necessary or convenient to be done for or in connection with its functions.

15. POWERS OF COMMISSION TO DEAL WITH PROPERTY.

(1) Subject to Subsection (2) the Commission may acquire any property by transfer, purchase, gift, devise, demise or bequest or otherwise.

(2)^{13 14} Subject to this section, and to Section 45, and to any law relating to dealings in land and to any conditions attaching to the acquisition of property under Subsection (1), the Commission may—

- (a) control and manage the property; or
- (b) sell any of the property and apply or invest the proceeds of the sale for the purposes of this Act.

(3)^{15 16} Subject to Section 45, the Commission shall not, without the approval of the Minister—

- (a) acquire any property, right or privilege for a consideration exceeding in amount or value K100,000.00; or
- (b) dispose of any property, right or privilege where the amount or value of the consideration for the disposal, or the value of the property, right or privilege, exceeds K100,000.00; or
- (c) enter into an agreement for the construction of a building for the Commission, being an agreement under which the Commission is to pay an amount exceeding K100,000.00; or
- (d) enter into a lease of land for a period exceeding 20 years.

16. FARES AND CHARGES.

¹⁷ Subject to any other law in force, the Commission may—

- (a) in the conduct of a transport operation, transport any passengers and goods that are offered for that purpose; and
- (b) subject to any determination under Section 21 of the *Prices Regulation Act 1949*, fix fares and charges relating to domestic scheduled passenger and cargo services and impose such conditions in respect of their operation as it determines; and
- (c) (c) otherwise demand such fares and charges, and impose such conditions in respect of that operation, as it determines.

¹³ Section 15(2) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8(a).

¹⁴ Section 15(2) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8(a).

¹⁵ Section 15(3) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8(b).

¹⁶ Section 15(3) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8(b).

¹⁷ Section 16 amended by No. 55 of 1983, s3.

17. COMMISSION BOUND BY AGREEMENTS.

Subject to this Act, the Commission shall carry into effect the terms and conditions of any agreement made between the State and—

- (a) the Australian nominees or either of them; or
- (b) the Company,

relating to the responsibilities and operations of the Commission.

18. DELEGATION.

¹⁸The Commission may, by instrument, delegate to the General Manager, an officer, an employee or any other person all or any of its powers and functions (except this power of delegation).

¹⁸ Section 18 amended by No. 30 of 1978, s4; repealed and replaced *National Airline Commission (Amendment) Act* 1986 (No. 34 of 1986), s8A.

PART IV. – THE GENERAL MANAGER.**19. APPOINTMENT, ETC., OF GENERAL MANAGER.**

(1)¹⁹ ²⁰There shall be a General Manager of the Commission who shall be—

- (a) appointed by the National Executive Council, after considering recommendations by the Minister, by notice in the National Gazette; and
- (b) appointed for such period as the Minister determines; and
- (c) the Chief Executive Officer of the Commission; and
- (d) the Head of the Service of the Commission.

(2) The terms and conditions of appointment and service of the General Manager are as determined by the Commission in consultation with the Minister.

20. VACATION OF OFFICE OF GENERAL MANAGER.

(1)²¹ ²²If the General Manager—

- (a) becomes permanently incapable of performing his duties; or
- (b)²³ resigns his office by writing under his hand to the Minister; or
- (c)²⁴ engages, without the consent of the Minister, in any paid employment outside the duties of his office; or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (e) is convicted of an offence punishable under a law by death or imprisonment for one year or longer and, as a result of that conviction, is under sentence of death or imprisonment,

the National Executive Council shall terminate his appointment.

(2)²⁵ ²⁶The Minister may at any time, by written notice, advise the General Manager that the National Executive Council intends to terminate his appointment on the grounds—

¹⁹ Section 19(1) repealed and replaced by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s1.

²⁰ Section 19(1) repealed and replaced by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s1.

²¹ Section 20(1) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(a); amended by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(a)(iii).

²² Section 20(1) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(a); amended by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(a)(iii).

²³ Section 20(1)(b) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(a); amended by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(a)(i).

²⁴ Section 20(1)(b) amended by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(a); amended by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(a)(ii).

²⁵ Section 20(2) repealed and replaced by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(b); repealed and replaced by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(b).

- (a) of inability, inefficiency, incapacity or misbehaviour; or
- (b) that, in the opinion of the National Executive Council, the General Manager is not providing managerial leadership and is not performing his task adequately.

(3)²⁷ ²⁸Within 30 days of the receipt of a notice under Subsection (2), the General Manager may reply in writing to the Minister, who shall—

- (a) submit the reply to the National Executive Council for consideration and decision; and
- (b) thereafter deliver to the General Manager written notice of the decision of the National Executive Council.

(4)²⁹ ³⁰Where a General Manager does not, within 30 days of the receipt of a notice under Subsection (2), reply in writing to the Minister, his appointment is terminated.

21. PUBLIC SERVICE RIGHTS OF GENERAL MANAGER.

(1) If an officer of the Public Service is appointed to be the General Manager, his service as General Manager shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on the grounds of illness; and
- (b) long leave or furlough (including pay to dependants on the death of the officer).

(2) The office of General Manager is an office to which applies the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

22. FUNCTIONS OF THE GENERAL MANAGER.

(1) The General Manager—

- (a) shall manage the National Airline and any associated service; and
- (b) shall, in relation to the management of that airline or service, act in accordance with the policy and directions of the Commission; and
- (c) advise the Commission on any matter concerning the National Airline referred to him by the Commission.

²⁶ Section 20(2) repealed and replaced by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(b); repealed and replaced by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(b).

²⁷ Section 20(3) inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(b). Repealed and replaced by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(c).

²⁸ Section 20(3) inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(b). Repealed and replaced by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(c).

²⁹ Section 20(4) inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(b). Amended by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(d).

³⁰ Section 20(4) inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s8B(b). Amended by *National Airline Commission (Amendment) Act 1996* (No. 1 of 1996), s2(d).

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(2) The General Manager has such other functions as the Commission from time to time determines.

PART V. – THE SERVICE OF THE COMMISSION.

23. APPOINTMENT OF OFFICERS.

(1) The Commission may, on the recommendation of the General Manager, appoint to be officers of the Commission such persons as it thinks proper and necessary for the purposes of the Commission.

(2) The General Manager and the officers of the Commission constitute the Service of the Commission.

(3) Subject to this Part and to the regulations, officers hold office on such terms and conditions as the Commission determines.

(4) If an officer appointed under this section was, immediately before his appointment, an officer of the Public Service, his service as an officer of the Commission shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of–

- (a) leave of absence on the ground of illness; and
- (b) long leave, furlough or pay in lieu (including pay to dependants on the death of the officer).

(5) The offices in the service of the Commission are offices to which apply the provisions of the *Public Services (Management) Act 1995* relating to leave to serve under another Act.

24. REGULATIONS FOR THE SERVICE OF THE COMMISSION.

The regulations may make provision in relation to the Service of the Commission and, in particular, may–

- (a) prescribe the terms and conditions of appointment of officers; and
- (b) make provision for a superannuation scheme to provide benefits for the General Manager and officers of the Commission on retirement.

25. TEMPORARY AND CASUAL EMPLOYEES.

(1) The General Manager may appoint such temporary and casual employees as he thinks necessary for the purposes of this Act.

(2) Employees appointed under Subsection (1) shall be employed on such terms and conditions as the Commission determines.

26. SUPPLY OF ACCOMMODATION.

The Commission may make available to its officers and employees, and to the General Manager, such housing or other accommodation as it thinks proper and on such terms and conditions as it thinks proper.

27. USE OF OFFICERS, ETC., OF OTHER AUTHORITIES.

By agreement with the appropriate person or authority and on such terms and conditions as are agreed on, the Commission may make use of the services of officers and employees, and of technical resources, of another person or authority.

PART VI. – FINANCE, ETC.

28. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

The *Public Finances (Management) Act 1995* applies to and in relation to the Commission.

29. INITIAL CAPITAL OF THE COMMISSION.

The initial paid-up capital of the Commission consists of–

- (a) the amounts made available by the Minister to the Commission for the purpose; and
- (b) the amounts made available by the Australian nominees to the Commission for the purpose; and
- (c) the amounts made available by the Company to the Commission for the purpose,

in accordance with Section 32 of the pre-Independence *National Airline Commission Act 1973*.

30. INCREASES IN THE CAPITAL OF THE COMMISSION.

(1) Subject to Subsection (2), the Commission may, with the prior approval of the Minister, increase its paid-up capital.

(2) Where the Commission increases its paid-up capital, the Australian nominees and the Company are jointly entitled to contribute to that increased paid-up capital an amount of not more than 40% of the amount by which the paid-up capital is increased, in such amounts as are proportional to their respective contributions to the initial capital of the Commission.

31. INTEREST NOT PAYABLE ON CONTRIBUTIONS TO CAPITAL.

Interest is not payable to–

- (a) the State; or
- (b) the Australian nominees; or
- (c) the Company,

on any contribution that it makes to the paid-up capital of the Commission.

32. REPAYMENT OF CAPITAL.

(1) The Commission may, with the approval of the Head of State, acting on advice, use such moneys as the Minister makes available for the purpose to repay the whole or part of the amounts contributed by the Australian nominees or the Company to the paid-up capital of the Commission.

(2) Where the amount contributed to the paid-up capital of the Commission by either of the Australian nominees or the Company is reduced, by a payment by the Commission under Subsection (1), to a level that no longer entitles it to representation on the Commission, the Commission shall, if required to do so by that nominee or the Company, as the case may be, repay to it the balance of the amount contributed by it.

(3) On giving six months' notice to the Commission of their or its intention to do so—

- (a) the Australian nominees, or either of them; and
- (b) the Company,

may withdraw all or any part of the amounts contributed by them or it to the paid-up capital of the Commission.

(4) Contributions to the paid-up capital of the Commission—

- (a) repaid under Subsection (1) or (2) shall be repaid at net worth value as at the date of repayment; and
- (b) repaid under Subsection (3) shall be repaid at the paid-up value as at the date of repayment.

33. PROFITS OF THE COMMISSION.

(1) For the purposes of this Act, the profits of the Commission for a financial year are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that financial year the expenditure and provision for expenditure properly chargeable against that revenue.

(2) The profits (if any) of the Commission for a financial year shall be applied in such manner as the Minister, on the recommendation of the Commission, determines.

(3) Where, under Subsection (2), the Minister determines that there shall be a distribution of profits, the profits shall be distributed to the State, the Australian nominees and the Company in proportion to the percentage of the paid-up capital which each holds at the end of the financial year to which the distribution relates.

34. LIABILITIES OF COMMISSION TO PAY RATES, TAXES AND CHARGES.

(1) The Commission is subject to taxation.

(2) The Commission is not a public authority for the purposes of Section 24 of the *Income Tax Act 1959*.

(3) The Commission is not an authority or instrumentality of the Government for the purposes of the *Local-level Governments Administration Act 1997*.

35. INSURANCE.

(1) In this section, “**risks to which this section applies**” means the following risks, to the extent to which, in the case of privately-owned air transport undertakings, they are customarily covered by insurance:—

- (a) risk of loss of, or damage to, aircraft of the Commission and parts of, and equipment for, such aircraft; and
- (b) risk of liability in respect of the death of, or injury to, passengers in aircraft of the Commission; and
- (c) risk of liability in respect of the death of, or injury to, persons on the surface, or damage to property on the surface, caused by an aircraft of the Commission in flight or by any person or thing falling from such an aircraft.

(2) So long as the Commission is not fully insured by policies of insurance against all risks to which this section applies, the Commission shall conform with such other arrangements as are approved by the Minister.

PART VII. – MISCELLANEOUS.**36. HEAD OFFICE.**

The head office of the Commission shall be established at Port Moresby or at such other place in the country as the Minister, on the recommendation of the Commission, appoints.

37. ATTORNEY.

(1) The Commission may, by instrument under its seal, appoint a person (whether within or outside the country) to be its attorney.

(2) A person so appointed under Subsection (1) may, subject to the instrument, do any act or execute any power or function that he is authorized by the instrument to do or execute.

38. EXECUTION OF CONTRACTS.

(1) Contracts on behalf of the Commission may be made, varied or discharged in accordance with this section, and all contracts so made are effectual in law and are binding on it and on all other parties to the contract, their heirs, executors, administrators and assigns.

(2) A contract that, if made between private persons, would by law be required to be in writing under seal may be made, varied or discharged in the name of and on behalf of the Commission in writing under its seal.

(3) A contract that, if made between private persons, would by law be required to be in writing and signed by the parties to be charged with it may be made, varied or discharged in the name of and on behalf of the Commission in writing signed by any person acting with its express or implied authority.

(4) A contract that if made between private persons, would by law be valid although made by parol only may be made, varied or discharged by parol in the name of and on behalf of the Commission by any person acting with its express or implied authority.

(5) This section does not invalidate a contract executed on behalf of the Commission by a duly appointed attorney of the Commission if the contract would be valid if executed by the attorney on his own behalf.

39. VALIDITY OF ACTS AND TRANSACTIONS OF THE COMMISSION.

The validity of an act or transaction of the Commission shall not be called in question in any legal proceedings on the ground that any procedural provision of this Act has not been complied with.

40. COMMISSION TO OBTAIN GOODS AND SERVICES IN THE COUNTRY.

Where it is practicable to do so, the Commission shall obtain all the goods and services that it requires for its operations from sources within the country.

41. DAMAGE TO BE MADE GOOD.

If any person inflicts, through any act, neglect or default by which he has, on conviction, incurred any penalty imposed by this Act or any other law, any damage on any aircraft or other property vested in the Commission he is liable to pay to the Commission by way of damages such amount as the court that convicts him assesses as being the value of the damage.

42. RECOVERY OF FINES OR CHARGES.

If on demand any person fails to pay the fares or charges due to the Commission in respect of any service rendered by the Commission, the Commission—

- (a) may detain and sell all or any of the goods of that person that are in its possession, and out of the moneys arising from the sale retain the fares or charges so payable and all charges and expenses of the detention, and shall render the surplus (if any) of the moneys arising by the sale, and such of the goods as remain unsold, to the person entitled to it; or
- (b) may recover the fares and charges in any court of competent jurisdiction.

43. BY-LAWS.

(1) The Commission may make by-laws, not inconsistent with this Act or any other Act, prescribing matters providing for or in relation to—

- (a) the operation of the National Airline and the conditions governing the performance of any service that the Commission may under this Act carry out or authorize; and
- (b) the protection and preservation of property of, or in the custody or under control of, the Commission; and
- (c) the maintenance of order in connection with the operation of the transport services; and
- (d) the prohibition of any interference with the air services or property of the Commission, or of any interference with or obstruction of any officer or employee of the Commission; and
- (e) the limitation of the liability of, and the conditions governing the making of claims on, the Commission in respect of any damage to or loss of any goods; and

- (f) the provision of penalties of fines not exceeding K100.00 or imprisonment for terms not exceeding three months for the breach of any by-law.
- (2) A by-law made under this Act has no force or effect until—
 - (a) approved by the Head of State, acting on advice; and
 - (b) published in the National Gazette.

44. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for the conduct of business by the Commission, and in particular for prescribing penalties of fines not exceeding K100.00 or imprisonment for terms not exceeding six months and default penalties of fines not exceeding K25.00 for offences against the regulations.

PART VIII.³¹ – DISPOSAL OF ASSETS, ETC., AND REPEAL.

45. DISPOSAL OF ASSETS, ETC., OF THE COMMISSION.

³²(1) The Commission shall, on the direction of the National Executive Council, dispose of the assets of the Commission or any part thereof, in such manner as is directed by the National Executive Council.

(2) For the purpose of enabling it to comply with Subsection (1), the Commission has power–

- (a) to incorporate, or arrange for the incorporation of a company under the *Companies Act 1997*; and
- (b) to hold shares in such company; and
- (c) to transfer the assets and liabilities of the Commission to such company; and
- (d) to dispose of the shares of such company–
 - (i) by sale; or
 - (ii) by transfer to the Minister in trust for the State.

(3) Where any property vested in the Commission and transferred by virtue of this section is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer and without fee, on application in that behalf by a company referred to in Subsection (2)(c), enter or register that company in the Register Book and, on entry or registration, grant a certificate of title, lease or other instrument evidencing title of the land, as the owner of the land within that Act.

46. REPEAL.

³³When the Commission has disposed of its assets and liabilities in accordance with this Part, this Act is repealed.

³¹ Part VIII inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s9.

³² Section 45 inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s9.

³³ Section 46 inserted by *National Airline Commission (Amendment) Act 1986* (No. 34 of 1986), s9.

SCHEDULE 1 – OATH AND AFFIRMATION OF OFFICE.

Sec. 9.

Oath.

“I, . . . , do swear that I will well and truly serve the Independent State of Papua New Guinea and its People in the office of Chairman (*or* Vice-Chairman *or* member) of the National Airline Commission of Papua New Guinea.

So help me God!”

Affirmation.

“I, . . . , do solemnly and sincerely promise and declare that I will well and truly serve the Independent State of Papua New Guinea and its People in the office of Chairman (*or* Vice-Chairman *or* member) of the National Airline Commission of Papua New Guinea.”

Office of Legislative Counsel, PNG