

1983-1984

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

AIR NAVIGATION AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

Circulated by authority of the
Minister representing the Minister
for Aviation in the Senate,
Senator the Hon. A.T. Gietzelt

(THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS
MADE BY THE HOUSE OF REPRESENTATIVES TO THE
BILL AS INTRODUCED)

OUTLINE

The Air Navigation Amendment Bill 1984 amends the Air Navigation Act 1920 to restrict the use of information obtained from cockpit voice recorders against crew members. Specifically, it precludes such use against crew members employed, or engaged under contract, by Australian operators in criminal proceedings in Australian courts or as a basis for disciplinary action by an employer, and sets out the extent of the use of such information in civil proceedings in Australian courts.

NOTES ON CLAUSES

Clause 1

1. Short title.

Clause 2

2. Provides for commencement on the date of Royal Assent.

Clause 3

3. This clause inserts a new section after section 27.

4. The new section is designated as section 27A. It deals with the use of recordings, and information on recordings, made by "cockpit voice recorders", as defined in sub-section (13), during the flight of an aircraft, including (by reason of sub-regulation (12)), any period in which the recorder was required by the Air Navigation Regulations or Air Navigation Orders to be operated in connection with the flight. In accordance with sub-section (11), a reference in section 27A to a cockpit voice recording is a reference to a recording of any words spoken during the flight of an aircraft by a person on the flight deck of the aircraft and includes a reference to a transcript or summary of such a recording.

5. Sub-section (1) precludes a cockpit voice recording being used in evidence in criminal proceedings in Australia against a crew member.

6. The circumstances in which a cockpit voice recording can be used in civil proceedings against a crew member and the extent to which it is evidence are dealt with in sub-sections (4) and (6), while sub-section (3) permits the making of an application for a cockpit voice recording to be admissible in proceedings for damages. Sub-section (5) provides for limitations on who may be present when a court is examining a cockpit voice recording to consider its admissibility in evidence.

7. Communication or publication of a recording or any information obtained from it is restricted by sub-sections (7), (8), and (10). The prohibition in sub-section (10) excludes Commonwealth officials, who are covered in this respect by section 70 of the Crimes Act 1914.

8. An employer is precluded by sub-section (9) from using a cockpit voice recording or any information thereon as the grounds for taking disciplinary action against an employee.

9. Sub-section (10A) makes it clear that the restrictions imposed by the Bill are to apply only to the use of evidence constituted by a recording made by the use of a cockpit voice recorder or a transcript or summary of such a recording.