

LOAN (AUSTRALIAN NATIONAL AIRLINES COMMISSION).

No. 31 of 1963.

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 31st May, 1963.]

BE 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 (Australian National Airlines Commission) Act 1963*.

Commence-
ment.

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 entered into between the Commonwealth and Morgan Guaranty Trust Company of New York a copy of which is set out in the Schedule to this Act.

(2.) For the purposes of this Act, the Series A Notes and the Series B Notes delivered by the Commonwealth under the Loan Agreement shall be deemed to form part of the Loan Agreement.

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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 Eleven million dollars is approved.

Approval of borrowing.

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 jet aircraft and related equipment, the Treasurer may, 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, and the Commission may borrow those amounts accordingly.

Application of moneys.

(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.

(3.) Amounts borrowed by the Commission under this section shall not be taken into account for the purposes of sub-section (5.) of section thirty-one of the *Australian National Airlines Act 1945-1961*.

6. The expenses of borrowing under the Loan Agreement, and any commitment fee, interest or other charges payable under that Agreement, shall be paid out of the Consolidated Revenue Fund.

Expenses and charges.

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.

Repayment of loan moneys.

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 1923-1959* does not apply in relation to moneys borrowed under the Loan Agreement.

National Debt Sinking Fund Act not to apply.

THE SCHEDULE.

Section 3.

LOAN AGREEMENT dated as of March 1, 1963 between COMMONWEALTH OF AUSTRALIA (the "Commonwealth") and MORGAN GUARANTY TRUST COMPANY OF NEW YORK (the "Bank").

The Commonwealth has requested the Bank 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 assist in the financing of the purchase of jet aircraft and related equipment. Upon the terms hereof the Bank is prepared to make loans for such purpose. Accordingly, the parties agree as follows:

SECTION 1. The Bank agrees to make loans to the Commonwealth at the latter's request from time to time prior to December 31, 1964 (the "Interim Loans") in an aggregate principal amount not to exceed \$11,000,000; provided, however, that the

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THE SCHEDULE—*continued.*

Commonwealth may, upon written notice to the Bank prior to June 30, 1963, reduce to \$10,000,000, effective upon the Bank's receipt of such notice, the amount which the Bank is obligated to lend under this Section. Each Interim Loan shall be evidenced by a promissory note ("Series A Note") substantially in the form of Exhibit A (with appropriate insertions), dated the date of the loan, bearing interest at the rate of 4½% per annum and maturing on December 31, 1964. Each Interim Loan will be in a principal amount of \$250,000 or an integral multiple thereof. The Commonwealth will give the Bank at least seven days' written or telegraphic notice of the date on which any Interim Loan is required and the amount of such Interim Loan.

SECTION 2. The Commonwealth will pay to the Bank a commitment fee computed at the rate of ¾ of 1% per annum (on the basis of a year of 365 days) (i) on \$10,000,000 in respect of the period from the date hereof through March 26, 1963 and (ii) on the daily average unused amounts which the Bank is obligated to lend under this Agreement in respect of the period from March 27, 1963 through December 31, 1964. The accrued portion of such commitment fee will be paid in dollars on June 30, 1963 and on the last day of each calendar quarter thereafter at the Bank's office, 23 Wall Street, New York 8, New York.

SECTION 3. The Bank agrees to lend on December 31, 1964 an amount not to exceed either (i) \$11,000,000 or (ii) in the event that the Commonwealth reduces to \$10,000,000 the amount which the Bank is obligated to lend under Section 1 hereof, \$10,000,000, and the Commonwealth agrees to borrow on such date an amount at least equal to the aggregate principal amount of the Series A Notes maturing on that date (the "Term Loan"). On such date the Commonwealth will deliver to the Bank Series B Notes, as that term is hereafter defined, in an aggregate principal amount equal to the amount being borrowed on such date. The principal amount of such Series B Notes equal to the principal amount of Series A Notes maturing on such date shall be delivered in payment for such Series A Notes which shall be surrendered to the Commonwealth for cancellation, and the remaining principal amount, if any, shall be issued for cash. The Term Loan shall be evidenced by fourteen promissory notes ("Series B Notes"—the Series A Notes and Series B Notes being sometimes herein called the "Notes") substantially in the form of Exhibit B (with appropriate insertions). Each of the Series B Notes, except the one maturing on December 31, 1971, will be for a principal amount equal to 1/14 of the amount of the Term Loan if the resulting amount is an integral multiple of \$5,000 or, if it is not, such principal amount will be increased to the next higher integral multiple of \$5,000. The principal amount of the Series B Note maturing on December 31, 1971 will be equal to the difference between the aggregate principal amount of the other Series B Notes and the amount of the Term Loan. The Series B Notes will be dated December 31, 1964, and such Notes will be numbered, will bear interest at a rate per annum, and will mature according to the following schedule:

Number	Interest Rate	Maturity
1	4½%	6/30/65
2	4½%	12/31/65
3	4½%	6/30/66
4	4½%	12/31/66
5	4½%	6/30/67
6	4½%	12/31/67
7	4½%	6/30/68
8	4½%	12/31/68
9	4½%	6/30/69
10	4½%	12/31/69
11	4½%	6/30/70
12	4½%	12/31/70
13	4½%	6/30/71
14	4½%	12/31/71

SECTION 4. Payments of principal of and interest on the Notes will be made to the Bank in dollars in New York Clearing House funds at its office at 23 Wall Street, New York 8, N.Y. Interest on the Notes will be computed on the basis of a year of 365 days and interest shall not be charged for the date on which any principal payment is made on the amount of such principal payment.

SECTION 5. The Notes will be duly executed by the Treasurer of the Commonwealth and by any person at the time Australian Consul-General at New York or the Acting Australian Consul-General at New York or the Senior Finance Officer at the Australian Consulate-General at New York.

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THE SCHEDULE—*continued.*

SECTION 6. The Commonwealth represents, warrants and agrees that the principal of and interest on the Notes and the commitment fee payable hereunder 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 Australia, or the Territory of Papua or the Territory of New Guinea.

SECTION 7. 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 10, 1963 relating to the Commonwealth's Twenty Year 5% Bonds Due April 1, 1983, a copy of which has been delivered to the Bank; and (b) that the proceeds of the Interim Loans and Term Loan will be made available to Trans-Australia to assist Trans-Australia in the financing of the purchase of jet aircraft and related equipment.

SECTION 8. The obligation of the 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 of the following further conditions:

(a) The Bank shall have received a Note or Notes, as the case may be, in the amount of the loan then being made by it;

(b) Before the making of the first loan hereunder the Bank 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 Bank, to the effect that (i) the borrowings provided for in this Agreement 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 executed as provided in Section 5 and delivered in accordance herewith, will constitute valid, binding, absolute and unconditional obligations of the Commonwealth enforceable in accordance with their terms, 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 is a valid and binding obligation of the Commonwealth enforceable in accordance with its terms; and

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

SECTION 9. The Commonwealth agrees that, from the date hereof until the payment in full of the Notes:

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

(c) The Bank 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 Australian Consul-General at New York or the Acting Australian Consul-General at New York or the Senior Finance Officer at the Australian Consulate-General at New York.

SECTION 10. If any principal or interest on any Note is not paid when due, and if any such default continues for ten days, the Bank, by written notice mailed to the Commonwealth, addressed to The Commonwealth Treasury, Canberra, Australia, may 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.

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THE SCHEDULE—*continued*.

SECTION 11. The Commonwealth will reimburse the Bank for its out-of-pocket expenses (including counsel fees) in connection with this Agreement and the loans 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 ROLAND WILSON
Secretary to the Treasury

MORGAN GUARANTY TRUST COMPANY OF NEW YORK

By SIDNEY G. BUTLER
Vice President

EXHIBIT A

§ , 196 .
New York, N.Y.

On December 31, 1964, for value received, COMMONWEALTH OF AUSTRALIA (the "Commonwealth") hereby promises to pay to the order of Morgan Guaranty Trust Company of New York, at 23 Wall Street, New York 8, N.Y., the principal sum of _____ dollars in lawful money of the United States of America, and to pay interest thereon in like money from the date hereof until the maturity hereof, at said office, quarterly on the last day of each calendar quarter, at the rate of 4½% per annum.

This note is one of the Series A Notes referred to in the Loan Agreement dated as of March 1, 1963 between the Commonwealth and Morgan Guaranty Trust Company of New York, 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 Australia or the Territory of Papua or the Territory of New Guinea.

COMMONWEALTH OF AUSTRALIA

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

EXHIBIT B

§ December 31, 1964.
New York, N.Y.

On _____, for value received, COMMONWEALTH OF AUSTRALIA (the "Commonwealth") hereby promises to pay to the order of Morgan Guaranty Trust Company of New York, at 23 Wall Street, New York 8, N.Y., the principal sum of _____ dollars in lawful money of the United States of America, and to pay interest thereon in like money from the date hereof until the maturity hereof, at said office, quarterly on the last day of each calendar quarter, at the rate of _____ per annum.

This note is one of the Series B Notes referred to in the Loan Agreement dated as of March 1, 1963 between the Commonwealth and Morgan Guaranty Trust Company of New York, 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.

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THE SCHEDULE—*continued.*

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 Australia or the Territory of Papua or the Territory of New Guinea

COMMONWEALTH OF AUSTRALIA

By
Treasurer of the Commonwealth
of Australia

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