

Qantas Sale Amendment Bill 2014

Portfolio: Infrastructure and Regional Development
Introduced: House of Representatives, 6 March 2014

Summary of committee concerns

1.55 The committee seeks further information as to the likely impact of the bill on the right to work.

Overview

1.56 This bill proposes the removal of various restrictions imposed on Qantas by the *Qantas Sale Act 1992*, as well as making amendments to the *Air Navigation Act 1920*. The bill proposes the repeal of sections of the Qantas Sale Act which require certain restrictions to be included in Qantas' articles of association to limit foreign ownership and impose other related restrictions, as well as compliance and enforcement measures to ensure Qantas abides by these requirements. The purpose of the bill is to place Qantas on an equal footing with other airlines by removing the foreign ownership and other restrictions on its business.

1.57 In particular, the bill proposes the repeal of Part 3 of the Qantas Sale Act. Part 3 includes the following:

7 Qantas' articles of association to include certain provisions

(1) The articles of association of Qantas must, on and from the day on which Qantas first becomes aware that a person, other than the Commonwealth or a nominee of the Commonwealth, has acquired voting shares in Qantas:

...

(h) require that of the facilities, taken in aggregate, which are used by Qantas in the provision of scheduled international air transport services (for example, facilities for the maintenance and housing of aircraft, catering, flight operations, training and administration), the facilities located in Australia, when compared with those located in any other country, must represent the principal operational centre for Qantas

1.58 The same section also provides: that the articles of association of Qantas must require that the company's head office always be located in Australia; that at least two-thirds of the directors of Qantas be Australian citizens; that the director presiding at a meeting of the board of directors of Qantas be an Australian citizen; and that Qantas must not take any action to become incorporated outside Australia.

Compatibility with human rights

Statement of compatibility

1.59 The bill is accompanied by a statement of compatibility that refers to rights to work in the International Covenant on Economic, Social and Cultural Rights (ICESCR). It states:

[t]he amendments proposed by this Bill to the QSA and ANA do not engage any of the applicable rights or freedoms. The Bill simply ensures Qantas is subject to the same regulatory framework as other Australian airlines.

The Bill will give Qantas greater flexibility in its business structures. These opportunities will be consistent with the opportunities available to other Australian airlines, and the Bill will not impact Australia's broader workplace relations regulatory framework. The Bill will therefore not impact on human rights relating to employment under articles 6(1), 7 and 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights.¹

Committee view on compatibility

Right to work

1.60 The committee considers that rights relating to work are relevant. The committee notes that one of Australia's obligations under the ICESCR is to fulfil the enjoyment of the right to work by promoting conditions in which persons can find work in Australia. The committee recognises that there is much contention over the appropriate role for government in relation to expanding job opportunities and that the impact of specific policies and measures may be hard to predict with certainty. The committee considers that an assessment of the compatibility of the bill with the ICESCR should have included some assessment of whether and how the bill might affect employment opportunities in Australia.

1.61 The committee intends to write to the Minister for Infrastructure and Regional Development to seek further information as to:

- **whether the bill is likely to limit the right to work;**
- **whether the government undertook any analysis of the likely impact on the right to work of the repeal of Part 3 of the *Qantas Sale Act 1992* and, if so, what the results of that analysis were; and**
- **if the bill is likely to limit the right to work, whether that limitation is compatible with Australia's obligations under the ICESCR.**

1 Statement of compatibility, p 2.