
Chapter 2 - Concluded matters

This chapter lists matters previously raised by the committee and considered at its meeting on 12 May 2014. The committee has concluded its examination of these matters on the basis of responses received by the proponents of the bill or relevant instrument makers.

Qantas Sale Amendment Bill 2014

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

Purpose

2.1 The Qantas Sale Amendment Bill 2014 (the bill) proposes the removal of various restrictions imposed on Qantas by the *Qantas Sale Act 1992* (Qantas Sale Act), 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. In particular, the bill proposes to repeal Part 3 of the Qantas Sales Act. The explanatory memorandum states that 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.

Background

2.2 The committee reported on the bill in its *Fourth Report of the 44th Parliament*

Committee view on compatibility

Right to work

Economic impact

2.3 The committee sought further information from the Minister for Infrastructure and Regional Development in relation 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 International Covenant on Economic, Social and Cultural Rights (ICESCR).

Minister's response

Whether the bill is likely to limit the right to work

The Bill is unlikely to limit the right to work under Articles 6, 7, and 8 of the International Covenant on Economic, Social and Cultural Rights, and will not impact Australia's obligation to fulfil the enjoyment of the right to work by promoting conditions in which people can find work in Australia.

The Government notes Qantas is taking a range of measures to reduce costs following the announcement of a \$252 million loss for the first half of 2013-14. Part 3 of the Qantas Sale Act 1992 (the 'QSA') places restrictions on Qantas that do not apply to its competitors. The Government considers that removing these conditions will enhance Qantas' ability to compete and is the best way to ensure Qantas can secure Australian jobs now and into the future.

The Bill will remove subsection 7(1)(h) 3 of the QSA which relates to the location of facilities used for Qantas' international services. Qantas will continue to be subject to designation criteria that are intended to ensure our airlines are compliant with the bilateral agreements that grant traffic rights to Australian international airlines. These criteria include a requirement for the head office and the airline's operational base to be in Australia. It is in Qantas' commercial interest to ensure that they can be designated as an Australian international airline and that they do not have their designation challenged in accordance with the provisions of the bilateral agreements.

The QSA contains no provisions regarding conditions of employment and the Bill does not change this. The Bill also makes no changes to employment laws or migration laws.

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.

The Government carefully considered a range of options to assist Qantas to return its operations to a sustainable footing, and determined that the best response is to repeal Part 3 of the QSA.

This approach will put Qantas on an equal footing with its competitors and is the best way to protect Australian jobs at Qantas.

In the longer term, Qantas will have more flexibility to structure its operations in a more sustainable way. However, operational necessity would dictate jobs (including crewing, catering, baggage handling and other servicing) will continue to be undertaken by workers in Australia.

The Fair Work Act 2009, migration and other laws would continue to apply to these workers.

If the bill is likely to limit the right to work, whether that limitation is compatible with Australia's obligations under the ICESCR

As noted above, the Bill is unlikely to limit the right to work.¹

Committee response

2.4 The committee thanks the Minister for Infrastructure and Regional Development for his response and has concluded its examination of this bill.

1 See Appendix 2, Letter from The Hon Warren Truss MP, Minister for Infrastructure and Regional Development, to Senator Dean Smith, 26 March 2014.