

## **Treasury Report: Air New Zealand/Ansett: Potential Liabilities**

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<b>Date:</b>	17 September 2001	<b>Treasury Priority:</b>	<b>Ministerial Deadline</b>
<b>Security Level:</b>	Commercial Sensitive	<b>Report No:</b>	T2001/1532

### **Action Sought**

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	<b>Action Sought</b>	<b>Deadline</b>
Treasurer/Minister of Finance	Note	Before Cabinet on Monday 17 September
Associate Minister of Finance (Hon Trevor Mallard)	Note	Before Cabinet on Monday 17 September
Associate Minister of Finance (Hon Paul Swain)	Note	Before Cabinet on Monday 17 September

### **Contact for Telephone Discussion (if required)**

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<b>Name</b>	<b>Position</b>	<b>Telephone</b>	<b>1st Contact</b>
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Alan Bollard	Secretary	471 5040 (wk)	

17 September 2001

GD/44/5

## **Treasury Report: Air New Zealand: Potential Liabilities for Debts Incurred by Ansett**

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### **Purpose of Report**

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1. This note is to advise the following:
  - the potential liability of Air NZ for the debts of Ansett; and
  - the position of debtors of Air NZ in the event of Air NZ being placed under statutory management.

### **Analysis**

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#### **Ansett**

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## **Air NZ**

8. In the event Air NZ becomes subject to statutory management, all debts and claims against Air NZ will be frozen pending stabilisation of the business.
9. To the extent there are planes or other assets in foreign jurisdictions, or the contracts for those assets are not subject to New Zealand law, a statutory manager will need to negotiate compromises to ensure these assets are available to enable operations to continue.
10. A statutory manager will have control of Air NZ and can exercise all the powers of the board or shareholders. The statutory manager has very wide powers, including power to:
  - carry on the business of the company;
  - pay creditors, and enter into compromises with creditors;
  - terminate employment contracts and agency contracts;
  - sell the whole or part of the company's business;
  - transfer the whole or part of the business into a new company, and sell that company. The statutory manager can transfer both assets and liabilities into the new company.
11. Statutory management increases the likelihood of the whole or part of the business continuing in operation if it is viable in the long term. If that business is not viable in the long term, statutory management would simply achieve a more orderly form of liquidation.
12. It would be expected that until the statutory manager forms a view as to the long term viability of Air NZ, business as usual at Air NZ would prevail to preserve the value of the business. That would mean employees would continue to be employed on existing terms and conditions. In the longer term, if the statutory manager believes it is necessary to restructure the business, the position of employees would need to be addressed and any changes to terms and conditions negotiated.
13. Given the uncertainties around the situation in Australia and the international aviation industry, it is difficult to give any realistic assessment of likely timeframes but it will be very dependent on the speed and extent of any downturn in the aviation industry.

14. Under New Zealand law, liquidation provides employees with a limited preference (up to \$6,000) for employee benefits. For any claims in excess of \$6,000, employees will rank as unsecured creditors.

### Recommended Action

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15. It is recommended that you **note** the content of this report.

**Ivan Kwok**  
Treasury Solicitor  
for Secretary to the Treasury

**Hon Dr Michael Cullen**  
Treasurer/Minister of Finance