Australia can't sue UK for dud subs

Andrew Tillett
Defence correspondent

Australia will be blocked from seeking compensation from the United Kingdom if British-designed nuclear-powered submarines have defects or are delayed, under the terms of the 50-year AUKUS treaty between the two nations.

The treaty also gives Britain an effective veto over any Australian proposal for the design of the new submarines, while the pact could be torn up with just a year's notice, amid growing questions over the Trump administration's commitment to AUKUS and willingness to share the crown jewels of weapons technology.

The bilateral treaty, announced with much fanfare in Sydney on Friday by Defence Minister Richard Marles and his UK counterpart John Healey, underpins the framework for co-operation between the UK and Australia on nuclear-powered submarines until 2075. But the wording of the treaty, revealed when it was tabled in parliament on Monday, highlights the dependency of Australia, as the junior partner, with key clauses skewed in Britain's favour.

> **[Britain will] approve the common SSN AUKUS design.**
> UK-Australia AUKUS treaty

The one-sided nature of the treaty is likely to be seized upon by sceptics, who argue Australia needs a back-up plan in case the pact fails to avoid being left without any submarine warfare and intelligence gathering capability.

"With this latest round of AUKUS the Albanese government is making it clear they would rather handcuff Australia to an erratic bully in the US and a dying empire in the UK than work with our neighbours to have a peaceful and stable region," Greens defence spokesman David Shoebridge said.

Under AUKUS, there is a three-step process to ensure Australian personnel and industry receives knowledge and the training to build, operate and maintain nuclear-powered submarines.

First is basing American and British submarines at Perth's naval base.

Second involves selling Australia three to five second-hand US-built Virginia-class submarines from the early 2030s. But this aspect has attracted significant public attention in recent weeks because of a Pentagon review examining whether the US can afford to give up some of its fleet.

But the third, longest-term element involves Britain and Australia co-designing a new submarine to be used by both navies, known as SSN AUKUS.

The treaty document makes clear that while Australian officials will participate in the design, Britain will take the lead on developing the new submarine and "approve the common SSN AUKUS design", effectively giving it a veto on any Australian proposals and the final say.

One of the most significant clauses is Australia waiving any liability against the British government if there are problems with the design or any equipment supplied. Britain is supplying the nuclear reactors for the Australian submarines, which will be built in Adelaide.

"The Receiving Party waives all claims against the Providing Party for any liability, loss, costs, damage or injury incurred by the Receiving Party … arising out of, related to, or resulting from activities that are materially connected to the transfer of Equipment and Material or the provision of services to the Receiving Party on a government-to-government basis (including the design, manufacture, assembly, transfer or use of any Equipment and Material transferred or to be transferred, and any services provided or to be provided, on a government-to-government basis)," the treaty states.

A government source, speaking on condition of anonymity, played down the significance of the liability clause, saying standard commercial arrangements were expected to be applied to contracts with defence suppliers, which would include penalty clauses.

Lions tour kicks domestic flight fares sky high

Rugby Fans urged to find innovative ways to get to Sydney match.

Ayesha de Kretser

Game on: Melbourne was inundated with British and Irish Lions rugby fans over the weekend. PHOTO: GETTY

Airlines look set to be the big winners out of the British and Irish Lions' historic tour of Australia, with some travellers paying more to fly domestically to the match in Sydney than they would to go via Bali.

Huge crowds of foreign tourists have descended Down Under for the historic rugby union series, which includes more than 15,000 flight movements and 80,000 hotel beds for the players, coaches and fans on the official tour.

Accommodation Australia chief executive James Goodwin said hoteliers were breathing a collective sigh of relief after years of cripplingly high international and domestic airfares. "The Lions tour has given a great kick-start to hotel occupancy across the country."

But domestic tourists were still being slugged for flights, Goodwin said.

"It's very clear that the cost of airfares and the accessibility [of flights] is certainly impacting on domestic tourism.

"Our concern is that people are travelling overseas for their holidays. I heard an example the other day that if you lived in Darwin, it would be cheaper for you to take an international flight to Indonesia and then go to Sydney than what it would be to get a domestic flight from Darwin to Sydney."

Flight Centre global managing director Andrew Stark said it was common surrounding major sporting and entertainment events that demand exceeded supply and direct airfares going into the game destination of the game would see an uplift.

"Particularly when you're looking to get to Sydney, from somewhere like Darwin for example, where there is already fairly limited capacity on that route, you can expect the direct flights to be more expensive than usual, or even book out entirely," Stark said.

"We're certainly seeing that occur around the British and Irish Lions Tour, and it's times like these where your travel agent will know the tricks that can get you there; be it on a unique route, or on a day that's not during peak demand periods."

Stark said there was one direct flight available from Darwin the day before Saturday's match in Sydney for more than $1800 for a one-way flight.

"That's about four times the price of the cheapest direct flight the following Friday. However, if you were to fly from Darwin to Brisbane, and into Sydney on the same day, it's closer to $500, so about a quarter of the price, and closer to what you might expect to spend," he said.

Virgin Australia's strategic investor Qatar Airways is the official sponsor and airline partner for the Lions. But it is also a Qantas partner through the Oneworld alliance, meaning both Australian airlines are benefiting from the international to domestic travel conversion.

Qantas chief executive for international flying Cam Wallace said the once-in-12-year series was proving hugely exciting for fans and customers in airports and onboard.

"Lions supporters are passionate travellers who we know follow their team wherever they play. We have seen exceptional demand across our domestic network over the weekend and our flights to Melbourne were full," Wallace said.

"We're preparing to fly thousands of customers to Sydney this weekend to watch the final game, and we're expecting a sea of red and Aussie green and gold with high passenger numbers across our services."

When the Lions played the Wallabies at the MCG on Saturday night, Qantas experienced a 9 per cent increase in the number of customers flying between Sydney and Melbourne compared with a year earlier, leading it to deploy one of its bigger wide body aircraft, an Airbus A330 instead of a Boeing 737.

It also added two more 737s to its flying between Melbourne and Sydney, with more group bookings across the network during the Lions tour expected to boost demand out of Melbourne, Sydney and Brisbane predominantly.

A spokesman for Virgin Australia said sports fans were driving demand for domestic travel higher.

"We have seen strong demand across our domestic network for the British & Irish Lions Tour, particularly from Brisbane, Sydney, Canberra, Adelaide and Perth. We operated more than 85,000 seats to and from Melbourne over the weekend to help get fans to and from matches," he said.

The boost to airlines comes at a time when load factors – a measure of how full planes are when they fly – remain at record highs and domestic capacity is still below 2019 levels.

Goodwin said hotels had a mixed start to the year and agreed the tour had driven a surge in local travel, despite the high cost of domestic airfares.

"One of the elements we probably didn't expect was how many Aussies have been travelling, whether that's people from country Victoria, spending a night or two in Melbourne, or whether that's someone in country NSW who has spent the night in Canberra," he said.

"The occupancy rate when the Lions played in Canberra on a Wednesday night with parliament not sitting was at 95 per cent. That's a record for a non-parliamentary Wednesday."

WA ready to fight to keep sweet GST deal

Jesinta Burton

The West Australian government is mulling a national campaign to defend its favourable GST deal, vowing not to be a passive observer as pressure mounts on the federal government to overhaul the system.

Despite publicly declaring its confidence that the federal government would not unwind the 2018 deal that boosted the state's share of the GST carve-up, the West Australian government is weighing up a campaign ahead of the Productivity Commission's 2026 review, *The Australian Financial Review* understands.

Under the Coalition's reforms, dubbed by critics the "worst policy decision of the 21st century", Western Australia has benefited from the introduction of a GST floor, which ensures states receive at least 75¢ for every dollar raised. The Commonwealth bankrolls top-up payments as part of a pledge that no state would be worse off.

But Western Australia has had to contend with a growing chorus of economists and state treasurers calling for the distribution model to be overhauled, with NSW Treasurer Daniel Mookhey and his Queensland counterpart, David Janetzki, among the most vocal proponents. Janetzki wrote to federal Treasurer Jim Chalmers demanding changes to the system after his state's share shrank by $2 billion.

> **Western Australia works hard to create the wealth everyone in Australia enjoys.**
> Rita Saffioti, WA treasurer

Western Australia's economic performance has been cited as evidence the system is flawed, with the state having posted seven consecutive budget surpluses since.

Now the state government is preparing to fight back.

While declining to be drawn on specific questions regarding a national campaign, West Australian Treasurer Rita Saffioti said the state would be proactive in countering the narrative dominating east coast media.

"[Prime Minister] Anthony Albanese and federal Labor back WA and the current GST deal, but we know others will be using the upcoming Productivity Commission review to try and tear it down," she said. "Some state governments and commentators over east have made no secret of their dislike of the deal, and they've made it clear they'll agitate for change.

"Western Australia can't sit on the sidelines. We need to be on the front foot, and that's exactly what our government will be doing."

Without the 2018 reforms, Western Australia would receive less than 20 per cent of its population share of the GST and would be incapable of investing in the infrastructure critical to growing the resources industry and the national economy, Saffioti said.

The WA treasurer said the state still received the lowest GST share in the nation.

She also pointed out the system redistributes about 90 per cent of the state's iron ore royalties.

"Western Australia works hard to create the wealth everyone in Australia enjoys, accounting for almost half of the value of the nation's goods exports underpinned by its resource sector," she said.