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Federal Airports Corporation Amendment Bill 1989

Date Introduced: 29 November 1989

House: House of Representatives

Portfolio: Transport and Communications

Digest of Bill

Purpose

The Bill aims to improve the efficiency of the Federal Airports Corporation (FAC) through the removal of certain day-to-day controls and provide for scrutiny by the Prices Surveillance Authority of proposed aeronautical charges.

Background

Under the *Air Navigation Act 1920*, the Commonwealth assumed responsibility for the control of air navigation in Australia. Over the years, this responsibility has been interpreted broadly and has encompassed the establishment and operation of civil airports, the provision of air traffic services, search, rescue and fire fighting services and the development and enforcement of air safety regulations.

On 1 January 1988 a new statutory body, the FAC, took responsibility for the Commonwealth's major civilian airports, on a commercial basis. Seventeen airports, valued at \$1.095 billion, were transferred from the Commonwealth to the FAC. The functions of the FAC are to operate Federal airports in Australia and to provide the Commonwealth, States, local government bodies, and other persons who operate, or propose to operate, airports with consultancy and management services relating to the development and operation of those airports.

In 1988-89, the FAC made an operating profit of \$43.721 million and returned to the Commonwealth a dividend of \$12.8 million. In 1988-89, FAC operating revenue totalled \$248.292 million and operating expenditure \$158.507 million. The FAC derives its income from both airport tenants in the form of rents and, where those tenants undertake commercial activities, Authority fees. In addition, aeronautical charges are paid by airlines and aircraft owners for the use of runways, taxiways and aircraft parking areas. In 1988-89, revenue derived from aeronautical charges totalled \$93.738 million.¹ Aeronautical charges are set periodically by the FAC and are subject to disapproval by the Minister.

The disturbance effecting domestic airlines in late 1989 is expected to reduce 1989-90 FAC revenue. The probable reduction in revenue stems, in part, from the Government's decision of 13 September 1989 to waive certain FAC

aeronautical charges normally payable by the airlines to an amount equal to the cost of retaining staff on their payrolls. The extent to which revenues may be reduced is difficult to quantify, although some commentators have estimated a loss of \$5 million per month for the duration of the disturbance.²

In December 1989, the Senate Standing Committee on Transport, Communications and Infrastructure presented a report on the organisation and operations of the Federal Airports Corporation and the Civil Aviation Authority. In relation to the FAC, the Committee's recommendations included that the FAC, if contemplating new charges or reviewing existing charges, involve its clients in prior consultations and that the consultations be conducted on the basis of the clients being provided with comprehensive explanations and full justification for the need and level of the charges. In addition, the Committee recommended that doubt concerning whether the *Prices Surveillance Act 1983* applies to the FAC should be resolved, and if the Act does apply, that it should be publicised within the industry, and if it does not apply, the Act be amended to ensure that it does apply.

Main Provisions

Amendments to the *Federal Airports Corporation Act 1986*

Paragraph (c) of clause 5 will allow the FAC to engage in anti-hijack activities.

Clause 6 will remove the current requirement that the FAC obtain Ministerial approval to enter contracts which involve it paying more than \$5 million.

New sections 10 and 11 will be substituted into the Act by clause 7 and deal with limitations on the FAC's power to form companies and partnerships. Proposed sections 10 and 11 will require the FAC to inform the Minister of its intention to join in the formation of a subsidiary to the FAC, subscribe for, or purchase shares in, a company which would become a subsidiary of the FAC, or enter into a partnership. Currently, Ministerial approval is required before the FAC engages in such activity. In addition, where the FAC holds a controlling interest in a company, or can control the things done by a partnership of which it is a member, it is to ensure that the company or partnership does not do anything that the FAC does not have power to do.

Clause 9 establishes and lists the purposes of the Board of the FAC. The purposes of the Board will be to decide the objectives, strategies and policies of the FAC, and to ensure that the FAC performs its functions in a proper, efficient, and economical manner.

Clause 17 provides that where the FAC suffers financially as a consequence of Ministerial decisions establishing, varying, or closing Federal airports, the FAC will be entitled to be reimbursed by the Commonwealth for that loss. The amount of reimbursement will be set by the Minister.

The Minister may direct the Board to vary the financial targets of the FAC and the performance indicators adopted by the Board (clause 20).

Clause 21 provides that if the Board forms the opinion that matters have arisen that may significantly affect achievement of the objectives of the FAC and its subsidiaries under the corporate plan, or achievement of the FAC's financial targets under the financial plan, it is, as soon as practicable, to notify the Minister of its opinion and the reasons for the opinion.

Clause 23 provides that the FAC will be liable to pay sales and income tax. The FAC will be liable to pay sales tax from 1 July 1990 and income tax from 1 July 1991 (clause 2).

Clause 24 will allow the FAC to borrow and raise money without the approval of the Treasurer.

New sections 54 – 54C will be substituted into the Act by clause 28 and deal with FAC bank accounts, investment, and audit. Proposed section 54 will allow the FAC to open and maintain accounts with banks; require the FAC to maintain at least one account; and pay all money received by the FAC into a bank account. Proposed section 54A provides that money of the FAC not immediately required may be invested in Commonwealth or a State guaranteed securities, or on deposit with a bank, or in a way consistent with commercial practices. Proposed section 54B provides that it will be an offence for the FAC to not keep proper accounts and records of its transactions and affairs in accordance with standard commercial accounting principles. The maximum penalty for a breach of this provision will be a fine of \$12 000. Proposed section 54 provides standard administrative provisions relating to the audit of FAC accounts and financial records.

Clause 30 deals with FAC aeronautical charges. Basically, FAC decisions in relation to proposed aeronautical charges will be subject to the scrutiny of the Prices Surveillance Authority and the FAC will only be able to set charges where they have been approved by the Minister, or the Minister has not within 30 days approved, disapproved, or substituted a new charge.

Clause 36 provides standard administrative provisions requiring the FAC to present an annual report.

Clause 41 will remove the current requirement that FAC by-laws be approved by the Minister.

Amendments to the *Freedom of Information Act 1982*

Clause 44 provides that the FAC will not be subject to the Act in relation to documents dealing with its commercial competitive activities and decisions setting aeronautical charges.

References

1. Federal Airports Corporation, *Annual Report 1988 – 89*, pp. 10 and 27.
2. *The Canberra Times*, 15 September 1989.

For further information, if required, contact the Economics and Commerce Group.

14 December 1989

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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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