Civil Aviation Bill 1988

Date Introduced: 14 April 1988
House: House of Representatives
Presented by: The Hon. Peter Duncan, M.P., Minister for Employment and Education Services

Digest of Bill

Purpose
To establish the Civil Aviation Authority (the Authority) which will be responsible for the safety regulation of civil aircraft operations and the provision of air traffic services.

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.

As of 1 January 1988 a new statutory body, the Federal Airports Corporation (FAC), took responsibility for the Commonwealth’s major civil airports. The Corporation is required to operate the airports, i.e., their terminals, runways and associated facilities, on a proper commercial basis. It is now the Government’s intention that most of the remaining Commonwealth responsibilities under the Air Navigation Act 1920 be transferred to the proposed Civil Aviation Authority.

These functions include the operational responsibility for air traffic control, flight advisory services, communications, navigation and surveillance systems and rescue and fire fighting services at airports. The Authority will provide an aeronautical information service and will offer consultancy and management services in its fields of expertise. It will also be responsible for organising aviation search and rescue services. In the past, all these functions plus those of the new FAC were the responsibility of a single Department of State, most recently the Department of Transport and Communications.

A key element of the aviation policies of successive Australian Governments has been the goal of ensuring that the costs of airways navigation services provided by the Government (but excluding regulatory functions) are recovered from the aviation industry. When the Government announced its in-principle decision to establish the CAA in October 1986...
(then referred to as the Civil Aviation Corporation), it stressed the need for the aviation industry to be more closely consulted in the provision of airways services as the industry must ultimately pay for them. Closer consultation would also allow the industry to have a more direct role in future investment decisions affecting the airways system. The Government considers that the new Authority will be better structured than the existing Departmental arrangements to respond adequately to the industry's requirements and its capacity and willingness to meet associated costs.

Given the commercial orientation of the Authority, the Government gave close consideration as to whether safety standard-setting and day-to-day regulatory control should become the responsibility of the Authority or remain with the Department. While the Government acknowledged that views differ on this important aspect, it has decided in favour of keeping air traffic control and flight advisory services integrated with aircraft and crew safety regulation (ie. together under the umbrella of the Authority) as the two areas complement each other.

In response to concerns that safety standards may become degraded if the Authority is required to operate commercially, the Government stresses that the CAA will not be subject to the full range of pressures that apply to business in a free market and that the Authority will be required to give primacy to safety considerations. Consistent with long standing cost recovery policy, the Authority would be financed from the Budget to meet the costs of standards-setting and compliance, although this would be on a contractual basis. This means that safety regulatory functions would not be embraced by the commercial responsibilities and goals of the Authority. Responsibility for aviation security and the Bureau of Air Safety Investigation (BASI) would remain within the Department of Transport and Communications although the Authority is required to provide supporting services to BASI in relation to the investigation of aircraft accidents and incidents.

Outline
The Bill is divided into ten parts, which establish the Authority and detail its functions, operations, finance and staffing among other matters. Many of the provisions are along similar lines to those in other Acts creating statutory authorities.

Main Provisions
For a detailed analysis of the clauses of the Bill refer to the Explanatory Memorandum.

The Authority will be established as corporation by clause 8.

Clause 9 lists the functions of the Authority, while clause 11 states that the Authority shall perform these functions in a manner consistent with Australia's obligations under the Chicago Convention and any other Australian international agreement relating to the safety of air navigation.
Under clause 12, the Minister may issue general written directions to the Authority as to the performance of its functions.

The powers of the Authority are listed in clause 13. The Authority is not to enter contracts which involve it in paying an amount exceeding $6 million without the Minister's approval.

The Authority's power to form companies and partnerships is limited by clauses 14 and 15 respectively.

Clauses 17 to 32 detail the Authority's responsibilities and powers in the regulation of civil aviation.

The Authority will consist of a Chairperson, Deputy Chairperson, Chief Executive Officer and six other members (clause 33).

The Authority is to develop a corporate plan and set financial targets and performance indicators (Part V).

The Authority's financial arrangements are listed in Part VI. Clauses 49 to 54 deal with the assets to be transferred to the Authority. The make-up of the Corporation's capital is listed in clause 54. Under clause 55, the Authority will not be liable to pay Federal, State or Territory taxes excepting customs duty and Commonwealth sales tax. The Authority may under certain conditions, pay a dividend to the Commonwealth (clause 56). The Treasurer may guarantee the Authority's borrowings (clause 59).

The Authority may fix charges for its services and the use of its facilities subject to certain Ministerial approval procedures (clause 66). Clauses 68–70 provide a power to create a statutory lien on aircraft where continuing difficulty is experienced in obtaining payment of charges. The powers over aircraft de-registration, seizure and sale and related procedures including the review of decisions are dealt with in clauses 71–83.

Part VII deals with the employment of a Chief Executive Officer, staff and consultants. Clause 91 provides for the staff of the authority to be appointed or employed under the Public Service Act 1922.

Part VIII is concerned with miscellaneous provisions including Ministerial and Authority delegations (clauses 93 and 94) and the making of regulations (clause 98).

Part IX provides, in a schedule, for consequential amendments to other legislation as a result of this Act (clause 99).

Part X deals with various transitional provisions relating to such matters as the administration of statutory liens (clause 101) and delegations (clause 103).
For further information, if required, contact the Economics and Commerce Group.

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Bills Digest Service
Legislative Research Service

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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