AIR NAVIGATION AMENDMENT BILL (NO. 2) 1984

Date Introduced: 13 September 1984
House: House of Representatives
Presented by: Hon. K.C. Beazley, Minister for Aviation

Short Digest of Bill

Purpose

To extend the power of the Minister to suspend or cancel an international airline licence issued to a foreign carrier where (i) the safety of air navigation in relation to Australia may be affected by the likely contravention by that airline of the Air Navigation Act 1920, the Regulations made thereunder or the terms of its licence or by the failure of the relevant overseas aeronautical authority to make adequate provision to ensure that the airline's operations substantially conform with internationally accepted standards, practices and procedures; or (ii) the Minister is of the opinion that it is necessary or desirable to do so for the purpose of preserving or promoting fair competition in international air services.

Background

At present, section 13 of the Principal Act empowers the Minister, inter alia, to suspend or cancel the airline licence of a foreign carrier if the airline or any aircraft operated by that airline fails to comply with the provisions of the Act or the regulations or the terms of its licence. Such action can only be taken, therefore, when a breach of these provisions has actually occurred. Even if it appeared likely that air safety in relation to Australia might be jeopardised by the likely breach of these provisions or by the failure of an overseas aeronautical authority to ensure that its airlines or aircraft substantially comply with the standards, practices and procedures set out in the Chicago Convention and its Annexes, the Minister would, under present legislation, have no power to take appropriate action. One purpose of the Bill is to rectify this situation.

The second stated aim of the Bill is to allow the Minister to cancel or suspend the licence of a foreign carrier, if it were considered necessary, as a form of
retaliation or potential retaliation in the event that a foreign Government, contrary to the principles or spirit of an air services agreement, might curtail or threaten to curtail the activities of an Australian carrier to its own advantage or the advantage of its own airlines.

In order to provide the Minister with this power, the Bill would permit the cancellation or suspension of a licence if in the opinion of the Minister it is necessary or desirable to do so for the purpose of preserving or promoting fair competition in international air transport services. This wording would appear to give the Minister very broad powers indeed. There is no explicit limitation of this power to a situation where possible retaliation in the face of unfair negotiating practices on the part of foreign governments might be warranted. The implication in the Explanatory Memorandum to the Bill and in the Second Reading Speech that this provision would be used only under such conditions would therefore appear to be relevant to the exercise of powers under the proposed provision.

Main Provisions

Paragraph 2(c) of the Bill inserts new paragraphs 13(c) and 13(d) into the Principal Act. Paragraph 13(c) would allow the Minister to cancel or suspend an international airline licence if in the opinion of the Minister the airline or an aircraft operated by the airline is likely to fail to comply with the Principle Act, the regulations or the terms of its licence or if the relevant authority of the foreign country has not made adequate provision to ensure that the airline and its aircraft substantially comply with the standards, practices and procedures set out in the Chicago Convention and its Annexes.

Paragraph 13(d) would allow the Minister to take similar action if he or she deemed it necessary or desirable to do so for the purpose of preserving or promoting fair competition in international air transport services.

For further information, if required, contact: