BILLS DIGEST

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Air Services Bill 1995
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Air Services Bill 1995

Date Introduced: 30 March 1995
House: House of Representatives
Portfolio: Transport
Commencement: A day fixed by proclamation or if such a day is not fixed within 6 months of the Bill receiving the Royal Assent, at the end of that period.

Purpose

Airservices Australia, together with the Civil Aviation Safety Authority, will replace the current Civil Aviation Authority. Airservices Australia will perform those functions of the former Civil Aviation Authority that do not relate to safety.

Background

Refer to the Digest for the Civil Aviation Legislation Amendment Bill 1995.

Main Provisions

Airservices Australia (AA) will be established as a corporation by clause 7. AAs functions are listed in clause 8 and include to:

- provide facilities for the safe navigation of aircraft in Australian airspace;

- provide air traffic, rescue and fire fighting, search and rescue, aeronautical radio navigational and aeronautical telecommunications services;

- co-operate with the Bureau of Air Safety Investigation in the investigation of safety incidents; and

- carry out activities to protect the environment from the effect of aircraft operating under Commonwealth jurisdiction.
In performing its functions, AA is to regard safety as its prime consideration. However, subject to this consideration AA is to ensure, as far as practicable, that the environment is protected from the effects of operations. AA is also to ensure that its operations are consistent with Australia's obligations under international aviation agreements (clause 9).

AA will be required to consult with government, industry, commercial and other relevant bodies in performing its functions (clause 10).

AA will be required to prepare a corporate plan, and in the preparation of the plan will be required to consider the need for aviation safety, government policies made known to AA and the governments financial contribution to search and rescue (clause 13).

The Minister will be given power to issue directions to AA and AA will be obliged to comply with such directions. If a direction results in AA suffering financial costs greater than would otherwise occur, AA will be entitled to an amount determined by the Minister to be the incurred costs, or revenue forgone, associated with the direction (clause 15).

The Minister will also be able to give AA notice about the Minister’s views on the strategic direction of AA, and AA is to take account of the Minister’s views when determining its corporate direction (clause 16).

State and Territory laws relating to land use will not apply when AA is performing its functions relating to the provision of air navigation facilities or air traffic, radio navigational, or telecommunications services (clause 18). The effect of this provision is that State and Territory land use laws, i.e those relating to the use of land or the environmental consequences of the use of land, will not apply to the major functions of AA that require land to be used.

Part 3 of the Bill will establish the Board of AA. It will consist of a Chairperson, Deputy Chairperson, Chief Executive Officer (CEO) and 6 other members and will determine the objectives and strategies of AA and ensure that it performs its functions in a proper, efficient and effective manner (clauses 20 and 21). Members of the Board, other than the CEO, are to be appointed by the Minister. The CEO is to be appointed by the Board (clause 33).

The remainder of the Bill deals with largely administrative matters. Major provisions relate to:

- remuneration - members remuneration is to be determined by the Remuneration Tribunal (or if the Tribunal has not made a decision regarding their remuneration, according to the regulations), while that for the CEO is to be determined by the Board (clauses 27 and 35);

- AAs capital is to be that of the previous CAA, less any amount determined by the Minister and the Minister for Finance to be the capital of CASA. The capital of AA will be repayable to the Commonwealth at such times as determined by the Minister, having regard to the Boards advice about AAs financial position, but interest will not be payable on the capital (clause 43);
• the Board is to make a recommendation to the Minister each financial year as to whether a dividend is payable to the Commonwealth and the Minister may either accept the recommendation or direct that AA pay a specified dividend to the Commonwealth (clause 45);

• AA is not to be a public authority for the purposes of section 23 of the Income Tax Assessment Act 1936 and so will not be exempt from Commonwealth income tax. AA will be exempt from State and Territory taxes, other than pay-roll tax (clause 51);

• AA will be able to set service charges for the services and facilities provided. However, proposed charges must first be submitted to the Minister, who may either approve or disapprove of the proposed charge (clause 53). Charges will be subject to the Prices Surveillance Act 1983 (clause 54);

• if charges remain unpaid by the due date, AA may impose a statutory lien on the aircraft in respect of which the charge is unpaid, which will enable AA to use the aircraft as security (clauses 58 and 59). If the amount remains unpaid 9 months after the later of the day the charge was due or the statutory lien was registered, AA may seize the aircraft and retain possession until the charge is paid (clause 64);

• at the end of the later of the two periods referred to above, AA may sell the aircraft, whether or not it has been seized. The proceeds from the sale are to be used according to the regulations (clause 66).

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