



Airports (Transitional) Act 1996

No. 36, 1996

An Act relating to the leasing of airports, and for related purposes

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Airports (Transitional) Act 1996

No. 36, 1996

An Act relating to the leasing of airports, and for related purposes

[Assented to 9 October 1996]

The Parliament of Australia enacts:

Part 1—Introduction

1 Short title

This Act may be cited as the *Airports (Transitional) Act 1996*.

Part 1 Introduction

Section 2

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act provides for the leasing of certain airports.
- Airport land and other airport assets will be transferred from the Federal Airports Corporation (FAC) to the Commonwealth.
- The Commonwealth will grant an airport lease to a company. The company is called an *airport-lessee company*.
- Immediately after the grant of the airport lease, the Commonwealth may transfer or lease certain assets to the airport-lessee company.
- Certain employees, assets, contracts and liabilities of the FAC will be transferred to the airport-lessee company.

4 Definitions

In this Act, unless the contrary intention appears:

airport has the same meaning as in the *Airports Act 1996*.

airport lease has the same meaning as in the *Airports Act 1996*.

airport-lessee company has the same meaning as in the *Airports Act 1996*.

airport site has the same meaning as in the *Airports Act 1996*.

asset means:

- (a) any legal or equitable estate or interest in real or personal property, including a contingent or prospective one; and
- (b) any right, privilege or immunity, including a contingent or prospective one.

company means a body corporate.

contract includes:

- (a) a deed; and
- (b) a deed poll.

employee includes apprentice.

FAC means the Federal Airports Corporation.

instrument includes a document.

land registration official, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

leased, in relation to assets other than land, means let on hire (whether or not described as a lease) under an agreement other than a hire-purchase agreement.

liability means a liability or duty, including a contingent or prospective one.

sale time, in relation to an airport-lessee company, has the meaning given by section 6.

share, in relation to a company, means a share in the company's share capital.

transferred employee means a person whose employment is transferred in accordance with a declaration under section 58.

transfer time, in relation to an employee, has the meaning given by section 58.

voting share has the same meaning as in the Corporations Law.

5 Sydney West Airport

For the purposes of this Act, Sydney West Airport is taken to be an airport at a particular time even if, at that time, it is:

- (a) merely intended to be developed for use as an airport; or
- (b) being developed for use as an airport.

6 Sale time for Commonwealth-owned company

- (1) This section applies to:
 - (a) an airport-lessee company that was granted an airport lease under section 21; or
 - (b) an airport-lessee company that was granted an airport lease under section 22, where, at any time before the grant of the lease, a majority of the voting shares in the company were held by:
 - (i) the Commonwealth; or
 - (ii) a nominee of the Commonwealth.
- (2) If, in the opinion of the Minister for Finance, a particular time is the first time after the commencement of this section on which a majority of the voting shares in the company are or were acquired by a person, or persons, other than:
 - (a) the Commonwealth; or
 - (b) a nominee of the Commonwealth;

Section 7

the Minister for Finance must, by notice in the *Gazette*, declare the time to be the *sale time* for the company.

- (3) The declaration has effect accordingly.
- (4) The notice must be published within 21 days after the time concerned.

7 Crown to be bound

- (1) This Act binds the Crown in the right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

8 External Territories

This Act extends to all the external Territories.

9 Extra-territorial operation

This Act extends to acts, omissions, matters and things outside Australia, whether or not in a foreign country.

Part 2—Transfers from the FAC to the Commonwealth

10 Simplified outline

The following is a simplified outline of this Part:

- Airport land and certain other assets and liabilities will be transferred from the FAC to the Commonwealth.
- If airport land is transferred to the Commonwealth, the airport will cease to be a Federal airport for the purposes of the *Federal Airports Corporation Act 1986*.
- Land transfers may be registered by State/Territory land registration officials.
- If the Commonwealth has a lease of any transferred land, the Commonwealth's interest under the lease does not merge in the greater estate or interest that becomes vested in the Commonwealth under this Part.
- The *Lands Acquisition Act 1989* does not apply to anything done under this Part.

11 Transfer of FAC land to the Commonwealth

- (1) This section applies to land in which the FAC has any right, title or interest.
- (2) The Minister for Finance may, by written instrument, make any or all of the following declarations:
 - (a) a declaration that the FAC's right, title and interest in specified land vests in the Commonwealth without any conveyance, transfer or assignment;
 - (b) a declaration that a specified instrument relating to specified land continues to have effect after the FAC's right, title and interest in the land vests in the Commonwealth as if a reference in the instrument to the FAC were a reference to the Commonwealth;
 - (c) a declaration that the Commonwealth becomes the FAC's successor in law in relation to the FAC's right, title and interest in specified land immediately after the FAC's right, title and interest in the land vests in the Commonwealth.

Section 12

Note: Land or an instrument may be specified by name, by inclusion in a specified class or in any other way.

- (3) A declaration has effect accordingly.
- (4) If the FAC's right, title or interest arises out of a lease, all obligations and benefits of the FAC under, or connected with, the lease:
 - (a) pass to the Commonwealth; and
 - (b) cease to be enforceable by or against the FAC;whether or not the obligations or benefits touch and concern the land.

Note: This section only provides for the transfer of the FAC's rights, title and interests. Accordingly, it does not affect the continued existence of existing leases or other existing interests.

12 Transfer of other FAC assets to the Commonwealth

- (1) This section applies to an asset of the FAC (other than land).
- (2) The Minister for Finance may, by written instrument, make any or all of the following declarations:
 - (a) a declaration that a specified asset vests in the Commonwealth without any conveyance, transfer or assignment;
 - (b) a declaration that a specified instrument relating to a specified asset continues to have effect after the asset vests in the Commonwealth as if a reference in the instrument to the FAC were a reference to the Commonwealth;
 - (c) a declaration that the Commonwealth becomes the FAC's successor in law in relation to a specified asset immediately after the asset vests in the Commonwealth.
- (3) A declaration has effect accordingly.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

13 Transfer of the FAC's contractual rights and obligations to the Commonwealth

- (1) This section applies to a contract (other than a contract of employment) to which the FAC is a party.
- (2) The Minister for Finance may, by written instrument, declare that the FAC's rights and obligations under a specified contract:
 - (a) cease to be rights and obligations of the FAC at a specified time; and

- (b) become rights and obligations of the Commonwealth immediately after that time.
- (3) The Minister for Finance may, by written instrument, declare that a specified contract continues to have effect, after the FAC's rights and obligations under the contract become rights and obligations of the Commonwealth, as if a reference in the contract to the FAC were a reference to the Commonwealth.
- (4) The Minister for Finance may, by written instrument, declare that a specified instrument relating to a specified contract continues to have effect, after the FAC's rights and obligations under the contract become rights and obligations of the Commonwealth, as if a reference in the instrument to the FAC were a reference to the Commonwealth.
- (5) The Minister for Finance may, by written instrument, declare that the Commonwealth becomes the FAC's successor in law, in relation to the FAC's rights and obligations under a specified contract, immediately after the FAC's rights and obligations under the contract become rights and obligations of the Commonwealth.
- (6) A declaration under this section has effect accordingly.
- (7) This section does not, by implication, limit section 12.

Note: A contract or instrument may be specified by name, by inclusion in a specified class or in any other way.

14 Transfer of FAC liabilities to the Commonwealth

- (1) This section applies to a liability of the FAC (other than a liability under a contract).
- (2) The Minister for Finance may, by written instrument, make any or all of the following declarations:
 - (a) a declaration that a specified liability ceases to be a liability of the FAC and becomes a liability of the Commonwealth;
 - (b) a declaration that a specified instrument relating to a specified liability continues to have effect after the liability becomes a liability of the Commonwealth as if a reference in the instrument to the FAC were a reference to the Commonwealth;
 - (c) a declaration that the Commonwealth becomes the FAC's successor in law in relation to a specified liability immediately after the liability becomes a liability of the Commonwealth.
- (3) A declaration under this section has effect accordingly.

Part 2 Transfers from the FAC to the Commonwealth

Section 15

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

15 Transferred airport ceases to be a Federal airport for purposes of the FAC Act

- (1) This section applies if the FAC's right, title and interest in particular land vests in the Commonwealth under this Part.
- (2) If that land is, or is part of, a Federal airport (within the meaning of the *Federal Airports Corporation Act 1986*), that airport ceases to be a Federal airport for the purposes of that Act.
- (3) If that land is, or is part of, a Federal airport development site (within the meaning of the *Federal Airports Corporation Act 1986*), that site ceases to be such a site for the purposes of that Act.

16 Transfers of FAC land may be registered

- (1) This section applies if:
 - (a) any right, title and interest in particular land vests in the Commonwealth under this Part; and
 - (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by an authorised person; and
 - (ii) identifies the land, whether by reference to a map or otherwise; and
 - (iii) states that the right, title and interest has become vested in the Commonwealth under this Part.

Note: *Authorised person* is defined by subsection (4).

- (2) The land registration official may:
 - (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
 - (b) deal with, and give effect to, the certificate.
- (3) A document that appears to be a certificate under subsection (1) is taken to be such a certificate, and to have been properly given, unless the contrary is established.
- (4) In this section:

authorised person means:

 - (a) the Minister for Finance; or
 - (b) a person authorised by the Minister for Finance, in writing, for the purposes of this section.

17 FAC land leased to the Commonwealth

- (1) This section applies to land:
 - (a) in which the FAC had any right, title or interest; and
 - (b) that was leased to the Commonwealth.
- (2) If the FAC's right, title and interest in the land vests in the Commonwealth under this Part, the Commonwealth's interest under the lease does not merge in the greater estate or interest that becomes vested in the Commonwealth under this Part.

Note: This means, in effect, that the Commonwealth will be treated as if it had leased the land to itself. When an airport lease is granted, the lessee of the lease referred to in paragraph (1)(b) will become the lessee of the airport-lessee company.

18 Lands Acquisition Act does not apply to this Part

The *Lands Acquisition Act 1989* does not apply in relation to anything done under this Part.

Part 3—Original grants of airport leases to companies

19 Simplified outline

The following is a simplified outline of this Part:

- The Commonwealth will grant an airport lease to a company. The company is called an *airport-lessee company*.
- Immediately after the grant of the airport lease, the Commonwealth may transfer or lease certain assets to the airport-lessee company.
- The Commonwealth may transfer certain contracts and liabilities to the airport-lessee company.
- Airport leases are granted subject to existing leases and other interests.
- The existence of this Act may be noted on title registers.
- The *Lands Acquisition Act 1989* does not apply to anything done under this Part.

20 Scope of Part

This Part applies to the following airports:

- (a) Sydney (Kingsford-Smith) Airport;
- (b) Sydney West Airport;
- (c) Melbourne (Tullamarine) Airport;
- (d) Brisbane Airport;
- (e) Perth Airport;
- (f) an airport specified in the regulations, where the airport site is owned by the Commonwealth.

21 Commonwealth may grant airport lease to a Commonwealth-owned company

- (1) The Commonwealth may grant an airport lease under this section.
- (2) The Commonwealth must not grant an airport lease under this section unless the lessee is a company all of whose shares are beneficially owned by the Commonwealth.
- (3) If a purported lease contravenes subsection (2), it is of no effect.

Note: In addition to the requirements of subsection (2), a grant must comply with the rules in Part 2 of the *Airports Act 1996*.

22 Commonwealth may grant airport lease to a company that is not owned by the Commonwealth

- (1) The Commonwealth may grant an airport lease under this section.
- (2) The Commonwealth must not grant an airport lease under this section unless the lessee is a company none of whose shares are beneficially owned by the Commonwealth.
- (3) If a purported lease contravenes subsection (2), it is of no effect.

Note: In addition to the requirements of subsection (2), a grant must comply with the rules in Part 2 of the *Airports Act 1996*.

23 Transfer or lease of assets to company

- (1) This section applies to an asset that has vested in the Commonwealth under section 11 or 12.
- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified asset vests in the company immediately after the grant without any conveyance, transfer or assignment.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified instrument relating to a specified asset continues to have effect after the asset vests in the company as if a reference in the instrument to the FAC or the Commonwealth were a reference to the company.
- (4) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the company becomes the Commonwealth's successor in law in relation to a specified asset immediately after the asset vests in the company.
- (5) A declaration under this section has effect accordingly.
- (6) The Commonwealth may lease an asset to a company that was granted an airport lease under section 21 or 22.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

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24 Transfer of contractual rights and obligations

- (1) This section applies to a contract (other than a contract of employment), where rights and obligations under the contract were transferred to the Commonwealth under section 13.
- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the Commonwealth's rights and obligations under a specified contract:
 - (a) cease to be rights and obligations of the Commonwealth immediately after the grant; and
 - (b) become rights and obligations of the company immediately after the grant.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified contract continues to have effect after the grant as if a reference in the contract to the Commonwealth or to the FAC were a reference to the company.
- (4) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified instrument relating to a specified contract continues to have effect, after the FAC's rights and obligations under the contract become rights and obligations of the company, as if a reference in the instrument to the Commonwealth or to the FAC were a reference to the company.
- (5) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the company becomes the Commonwealth's successor in law, in relation to the Commonwealth's rights and obligations under a specified contract, immediately after the Commonwealth's rights and obligations under the contract become rights and obligations of the company.
- (6) A declaration under this section has effect accordingly.
- (7) This section does not, by implication, limit section 23.

Note: A contract or instrument may be specified by name, by inclusion in a specified class or in any other way.

25 Transfer of liability to company

- (1) This section applies to a liability that has become a liability of the Commonwealth under section 14.
- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, then, immediately after the grant, a specified liability ceases to be a liability of the Commonwealth and becomes a liability of the company.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified instrument relating to a specified liability continues to have effect after the liability becomes a liability of the company as if a reference in the instrument to the FAC or the Commonwealth were a reference to the company.
- (4) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the company becomes the Commonwealth's successor in law in relation to a specified liability immediately after the liability becomes a liability of the company.
- (5) A declaration under this section has effect accordingly.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

26 Airport lease granted subject to existing interests in the land

- (1) An airport lease is granted under section 21 or 22 subject to all existing leases in relation to the land concerned.
- (2) Unless the Minister for Finance otherwise determines:
 - (a) all obligations and benefits of the Commonwealth under, or connected with, such an existing lease:
 - (i) pass to the airport-lessee company; and
 - (ii) cease to be enforceable by or against the Commonwealth;whether or not the obligations or benefits touch and concern the land; and
 - (b) an instrument relating to such an obligation or benefit continues to have effect after the grant of the airport lease as

Part 3 Original grants of airport leases to companies

Section 27

- if a reference in the instrument to the FAC or to the Commonwealth were a reference to the company; and
- (c) the company becomes the Commonwealth's successor in law, in relation to such an obligation or benefit, immediately after the grant of the airport lease.

Note 1: The lessees of existing leases become lessees of the airport-lessee company.

Note 2: Subsections (1) and (2) relate to the obligations and benefits of the Commonwealth as lessor. Section 17 deals with a case where the Commonwealth is the lessee under an existing lease.

- (3) An airport lease is granted under section 21 or 22 subject to all other existing interests in the land concerned.

27 Entries in title registers

- (1) This section applies if an airport lease is granted under section 21 or 22.
- (2) A land registration official may make such entries or notations in or on registers or other documents kept by the official (in electronic form or otherwise) as the official thinks appropriate for the purposes of drawing the attention of persons to the existence of this Act.

28 Lands Acquisition Act does not apply to this Part

The *Lands Acquisition Act 1989* does not apply to anything done under this Part.

Part 4—Transfer of the FAC's assets or contracts to airport-lessee companies

29 Simplified outline

The following is a simplified outline of this Part:

- If an airport lease is granted to a company, certain FAC assets or contracts may be transferred to the company.

30 Transfer of assets

- (1) This section applies to an asset of the FAC.
- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified asset vests in the company immediately after the grant without any conveyance, transfer or assignment.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 20 or 21 on a specified day, a specified instrument relating to a specified asset continues to have effect after the asset vests in the company as if a reference in the instrument to the FAC or to the Commonwealth were a reference to the company.
- (4) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the company becomes the FAC's successor in law in relation to a specified asset immediately after the asset vests in the company.
- (5) A declaration under this section has effect accordingly.
- (6) Any consideration payable for the transfer of an asset under this section is payable to the Commonwealth instead of to the FAC.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

31 Transfer of contractual rights and obligations

- (1) This section applies to a contract (other than a contract of employment) to which the FAC is a party.

Section 31

- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the FAC's rights and obligations under a specified contract:
 - (a) cease to be rights and obligations of the FAC immediately after the grant; and
 - (b) become rights and obligations of the company immediately after the grant.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified contract continues to have effect after the grant as if a reference in the contract to the FAC or to the Commonwealth were a reference to the company.
- (4) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified instrument relating to a specified contract continues to have effect, after the FAC's rights and obligations under the contract become rights and obligations of the company, as if a reference in the instrument to the FAC or to the Commonwealth were a reference to the company.
- (5) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the company becomes the FAC's successor in law, in relation to the FAC's rights and obligations under a specified contract, immediately after the FAC's rights and obligations under the contract become rights and obligations of the company.
- (6) A declaration under this section has effect accordingly.
- (7) This section does not, by implication, limit section 30.
- (8) Any consideration payable for a transfer under this section is payable to the Commonwealth instead of to the FAC.

Note: A contract or instrument may be specified by name, by inclusion in a specified class or in any other way.

Part 5—Transfer of the FAC's liabilities to airport-lessee companies

32 Simplified outline

The following is a simplified outline of this Part:

- If an airport lease is granted to a company, certain FAC liabilities may be transferred to the company.

33 Transfer of liabilities

- (1) This section applies to a liability of the FAC (other than a liability under a contract).
- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified liability:
 - (a) ceases to be a liability of the FAC immediately after the grant; and
 - (b) becomes a liability of the company immediately after the grant.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified instrument creating a specified liability continues to have effect after the grant as if a reference in the instrument to the FAC or to the Commonwealth were a reference to the company.
- (4) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, the company becomes the FAC's successor in law in relation to a specified liability immediately after the liability becomes a liability of the company.
- (5) A declaration under this section has effect accordingly.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

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Part 6—Treatment of sale of shares in an airport-lessee company owned by the Commonwealth

34 Simplified outline

The following is a simplified outline of this Part:

- This Part applies if an airport-lessee company is owned by the Commonwealth.
- Before the Commonwealth disposes of its shares in an airport-lessee company, the Minister for Finance may determine that:
 - (a) the FAC should be paid capital; and
 - (b) the FAC should pay the Commonwealth an amount by way of return of capital.
- If the Commonwealth disposes of its shares in an airport-lessee company:
 - (a) the Commonwealth will pay an amount to the FAC; and
 - (b) the FAC will pay the Commonwealth an equivalent amount by way of return of capital; and
 - (c) the Minister for Finance may determine that the FAC should be paid capital.

35 When this Part applies

This Part applies to an airport-lessee company if the company was granted an airport lease under section 21.

36 Commonwealth may pay the FAC an amount before disposal of shares

- (1) This section applies in relation to an airport-lessee company during the period:
 - (a) beginning when the company was granted an airport lease under section 21; and
 - (b) ending at the company's sale time.
- (2) The Minister for Finance may determine in writing that the FAC should be paid a specified amount of capital. The determination

must specify a company as the *nominated company* in relation to the payment.

- (3) The Minister for Finance may authorise the payment by the Commonwealth to the FAC of the amount specified under subsection (2).
- (4) If, because of subsection (2), an amount (the *capital amount*) is payable to the FAC, the Minister for Finance may determine in writing that the FAC must pay a specified amount to the Commonwealth, so long as the specified amount does not exceed the capital amount.
- (5) The amount payable because of subsection (2) may be set-off against the amount payable under subsection (4).
- (6) The amount payable under subsection (4) is payable by way of return of capital to the Commonwealth.

37 Commonwealth must pay an amount to the FAC

- (1) This section applies if the Commonwealth disposes of all its shares in an airport-lessee company that was granted an airport lease under section 21.
- (2) When the consideration for those shares becomes payable, the Commonwealth must pay the FAC an amount determined in writing by the Minister for Finance, reduced by the amount (if any) payable because of subsection 36(2), where the company was the nominated company in relation to the payment made because of that subsection.
- (3) The amount payable under subsection (2) is payable by way of the provision of capital for the FAC.
- (4) If the Commonwealth pays an amount to the FAC under subsection (2), the FAC must pay the Commonwealth an amount equal to that amount.
- (5) The amount payable under subsection (2) may be set-off against the amount payable under subsection (4).
- (6) The amount payable under subsection (4) is payable by way of return of capital to the Commonwealth.

38 Capital for the FAC following disposal of shares

- (1) This section applies if:

Part 6 Treatment of sale of shares in an airport-lessee company owned by the Commonwealth

Section 39

- (a) the Commonwealth disposes of all its shares in an airport-lessee company that was granted an airport lease under section 21; and
 - (b) the Minister for Finance determines in writing that the FAC should be paid a specified amount of capital.
- (2) The Minister for Finance may authorise the payment by the Commonwealth to the FAC of the specified amount.

39 Appropriation of Consolidated Revenue Fund

The Consolidated Revenue Fund is appropriated for the purposes of this Part.

Part 7—Treatment of consideration payable by an airport-lessee company that is not owned by the Commonwealth

40 Simplified outline

The following is a simplified outline of this Part:

- This Part applies if an airport-lessee company is not owned by the Commonwealth.
- If consideration becomes payable by the company to the Commonwealth for the grant of the airport lease and the transfer or lease of any airport assets:
 - (a) the Commonwealth will pay an amount to the FAC; and
 - (b) the FAC will pay the Commonwealth an equivalent amount by way of return of capital; and
 - (c) the Minister for Finance may determine that the FAC should be paid capital.

41 When this Part applies

This Part applies to an airport-lessee company if the company was granted an airport lease under section 22.

42 Commonwealth must pay an amount to the FAC

- (1) This section applies if an airport-lessee company pays, or is liable to pay, consideration to the Commonwealth for:
 - (a) the grant of the airport lease; and
 - (b) the transfer or lease of any assets under section 23 or 24; and
 - (c) the transfer of any assets under section 30 or 31.
- (2) When that consideration becomes payable, the Commonwealth must pay the FAC an amount determined in writing by the Minister for Finance.
- (3) The amount payable under subsection (2) is payable by way of the provision of capital for the FAC.

Part 7 Treatment of consideration payable by an airport-lessee company that is not owned by the Commonwealth

Section 43

- (4) If the Commonwealth pays an amount to the FAC under subsection (2), the FAC must pay the Commonwealth an amount equal to that amount.
- (5) The amount payable under subsection (2) may be set-off against the amount payable under subsection (4).
- (6) The amount payable under subsection (4) is payable by way of return of capital to the Commonwealth.

43 Capital for the FAC after consideration becomes payable

- (1) This section applies if:
 - (a) an airport-lessee company pays, or is liable to pay, to the Commonwealth an amount of consideration for:
 - (i) the grant of the airport lease; and
 - (ii) the transfer or lease of any assets under section 23 or 24; and
 - (iii) the transfer of any assets under section 30 or 31; and
 - (b) the Minister for Finance determines in writing that the FAC should be paid a specified amount of capital.
- (2) The Minister for Finance may authorise the payment by the Commonwealth to the FAC of the specified amount.

44 Appropriation of Consolidated Revenue Fund

The Consolidated Revenue Fund is appropriated for the purposes of this Part.

Part 8—Special tax rules

Division 1—Simplified outline

45 Simplified outline

The following is a simplified outline of this Part:

- Certain transactions under this Act are exempt from stamp duty and other taxes.
- The income tax law is modified in its application to certain transactions under this Act.

Division 2—Exemption from stamp duty and other taxes

46 Exemption from stamp duty and other taxes

(1) In this section:

exempt matter means:

- (a) the grant of an airport lease by the Commonwealth under section 21; or
 - (b) an agreement relating to a grant mentioned in paragraph (a); or
 - (c) the transfer of an asset or a liability under section 23, 24, 25, 30, 31 or 33 to a company that was granted an airport lease under section 21; or
 - (d) the lease of an asset under section 23 to a company that was granted an airport lease under section 21; or
 - (e) an agreement relating to a lease mentioned in paragraph (d).
- (2) Stamp duty or other tax is not payable under a law of a State or Territory in respect of:
- (a) an exempt matter; or
 - (b) anything done (including a transaction entered into or an instrument or document made, executed, lodged or given) because of, or for a purpose connected with or arising out of, an exempt matter.

47 Airport-lessee company not liable to stamp duty on pre-grant instruments

- (1) This section applies if, at the time a particular instrument was executed by the FAC, the FAC was exempt from stamp duty or other tax under a law of a State or Territory in respect of the instrument.
- (2) To avoid doubt, an airport-lessee company whose airport lease is granted under section 21 or 22 is not liable to stamp duty or other tax under a law of a State or Territory in respect of:
 - (a) the execution of the instrument; or
 - (b) a matter connected with the instrument, if the matter occurred before the grant of the airport lease concerned.

48 Stamp duty—transfers of assets or liabilities to privately-owned companies

- (1) This section applies if, as a result of a declaration under section 23, 24, 25, 30, 31 or 33, an asset or liability is transferred to a company immediately after the grant to the company of an airport lease under section 22.
- (2) This Act does not prevent a law of a State or Territory from imposing a liability to pay an amount of stamp duty or other tax because of that declaration if:
 - (a) it is reasonable to expect that a corresponding amount of stamp duty or other tax would have been payable under a law of that State or Territory if the asset or liability that was transferred to the company because of the declaration had instead been transferred to the company by a written instrument executed by the parties to the transfer; and
 - (b) the first-mentioned amount does not exceed what it is reasonable to expect that the corresponding amount would have been.

Section 49

Division 3—Special income tax rules

49 Special depreciation rules for fixtures

- (1) This section applies if:
 - (a) a company obtains a lease relating to particular land under section 21, 22 or 23; and
 - (b) at the time the lease was obtained, a unit of property is affixed to the land.
- (2) If:
 - (a) immediately before the land vested in the Commonwealth under Part 2:
 - (i) the property was affixed to a particular part of the land; and
 - (ii) that part of the land was leased to another entity; and
 - (iii) under section 54AA of the *Income Tax Assessment Act 1936*, the provisions of that Act relating to depreciation applied to the property and to the other entity as if the other entity were the owner of the property; and
 - (b) on the grant, the lessee of the lease mentioned in subparagraph (a)(ii) became a lessee of the company; then, so long as the other entity continues to hold the lease mentioned in subparagraph (a)(ii), section 54AA of the *Income Tax Assessment Act 1936* has effect, in relation to the property, as if:
 - (c) the lease mentioned in subparagraph (a)(ii) were a Crown lease; and
 - (d) the other entity were the lessee under the Crown lease.
- (3) If:
 - (a) subsection (2) does not apply to the property; and
 - (b) the FAC was the owner of the property for the purposes of section 54 of the *Income Tax Assessment Act 1936* immediately before the land vested in the Commonwealth under Part 2 of this Act;then:
 - (c) section 54AA of the *Income Tax Assessment Act 1936* has effect, in relation to the property, as if:
 - (i) the company had acquired the lease from a prior holder of the lease; and
 - (ii) the prior holder had acquired or constructed the property and affixed the property to the land; and

- (iii) a reference in that section to the consideration paid or given by the company for the acquisition of the lease were a reference to the consideration given by the company for the grant of the lease; and
 - (d) section 60 of the *Income Tax Assessment Act 1936* has effect as if the company had acquired the property from the FAC instead of from another person; and
 - (e) the Minister for Finance may make a written determination that the provisions of the *Income Tax Assessment Act 1936* relating to depreciation have effect as if the depreciated value of the property at the time of the grant were equal to the amount specified in the determination.
- (4) A determination under paragraph (3)(e) has effect accordingly.
 - (5) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of section 59 of the *Income Tax Assessment Act 1936* to the property and to the FAC.
 - (6) This section does not affect the operation of section 19 of the *Civil Aviation Legislation Amendment Act 1995*.
 - (7) In this section:
entity means any of the following:
 - (a) a company;
 - (b) a partnership;
 - (c) a person in a capacity of trustee;
 - (d) any other person.

50 Acquisition of depreciated property from the Commonwealth

- (1) This section applies to a unit of property that:
 - (a) was transferred from the Commonwealth to a company under section 23; and
 - (b) at the time of the transfer, was not affixed to land.
- (2) Section 60 of the *Income Tax Assessment Act 1936* has effect as if the company had acquired the property from the FAC instead of from the Commonwealth.
- (3) The Minister for Finance may make a written determination that the provisions of the *Income Tax Assessment Act 1936* relating to depreciation have effect as if the depreciated value of the asset at the time of the transfer were equal to the amount specified in the determination.

Section 51

- (4) The determination has effect accordingly.
- (5) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of section 59 of the *Income Tax Assessment Act 1936* to the property and to the FAC.

51 Acquisition of depreciated property from the FAC

- (1) This section applies to a unit of property that was transferred from the FAC to a company under section 30.
- (2) The Minister for Finance may make a written determination that the provisions of the *Income Tax Assessment Act 1936* relating to depreciation have effect as if the depreciated value of the asset at the time of the transfer were equal to the amount specified in the determination.
- (3) The determination has effect accordingly.
- (4) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of section 59 of the *Income Tax Assessment Act 1936* to the property and to the FAC.

52 Consideration received by the FAC for transfer of assets to the Commonwealth or to an airport-lessee company

- (1) This section applies to an asset that was:
 - (a) transferred from the FAC to the Commonwealth under section 11, 12 or 13; or
 - (b) transferred from the FAC to an airport-lessee company under section 30 or 31.
- (2) The Minister for Finance may make a written determination that the *Income Tax Assessment Act 1936* has effect, in relation to the FAC, as if:
 - (a) the FAC had received consideration from the Commonwealth in respect of the transfer of a specified asset; and
 - (b) that consideration was equal to the amount specified in the determination.
- (3) The determination has effect accordingly.
- (4) The FAC must give the Minister for Finance such information as the Minister for Finance requires about the application of section 59 of the *Income Tax Assessment Act 1936* to the asset and to the FAC.

53 Airport-lessee company to be building owner for the purposes of Division 10C of Part III of the *Income Tax Assessment Act 1936*

- (1) For the purposes of Division 10C of Part III of the *Income Tax Assessment Act 1936*, if:
- (a) there is an amount of qualifying hotel expenditure or qualifying apartment expenditure in respect of an eligible building; and
 - (b) the eligible building is situated on land leased under an airport lease; and
 - (c) immediately before the land was transferred from the FAC to the Commonwealth under Part 2 of this Act, the FAC was the owner of the building for the purposes of Division 10C of Part III of the *Income Tax Assessment Act 1936*;

then, so long as the airport-lessee company concerned continues to hold the airport lease, the airport-lessee company is taken to be the owner of the building.

- (2) In this section:
- eligible building* has the same meaning as in Division 10C of Part III of the *Income Tax Assessment Act 1936*.
- qualifying apartment expenditure* has the same meaning as in Division 10C of Part III of the *Income Tax Assessment Act 1936*.
- qualifying hotel expenditure* has the same meaning as in Division 10C of Part III of the *Income Tax Assessment Act 1936*.

54 Airport-lessee company to be building owner for the purposes of Division 10D of Part III of the *Income Tax Assessment Act 1936*

- (1) For the purposes of Division 10D of Part III of the *Income Tax Assessment Act 1936*, if:
- (a) there is an amount of qualifying expenditure in respect of an eligible building; and
 - (b) the eligible building is situated on land leased under an airport lease; and
 - (c) immediately before the land was transferred from the FAC to the Commonwealth under Part 2 of this Act, the FAC was the owner of the building for the purposes of Division 10D of Part III of the *Income Tax Assessment Act 1936*;

then, so long as the airport-lessee company concerned continues to hold the airport lease, the airport-lessee company is taken to be the owner of the building.

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(2) In this section:

eligible building has the same meaning as in Division 10D of Part III of the *Income Tax Assessment Act 1936*.

qualifying expenditure has the same meaning as in Division 10D of Part III of the *Income Tax Assessment Act 1936*.

55 Modification of depreciation and capital gains tax provisions

(1) This section applies if:

- (a) a company is granted an airport lease under section 21; and
- (b) the company's sale time does not occur within 7 days after the grant.

(2) The regulations may provide that:

- (a) the provisions of the *Income Tax Assessment Act 1936* relating to depreciation; and
- (b) Part IIIA of that Act;

apply in relation to:

- (c) the airport lease; and
- (d) assets transferred or leased to the company under section 23, 24, 30 or 31;

subject to such modifications as are specified in the regulations.

(3) In this section:

modifications includes additions, omissions and substitutions.

56 Transfer of development allowance benefits

(1) This section applies if:

- (a) an airport lease is granted to a company under section 21 or 22; and
- (b) immediately before the airport was transferred to the Commonwealth under Part 2, the FAC was carrying out, or proposed to carry out, a project (within the meaning of the *Development Allowance Authority Act 1992*), at the airport.

(2) The *Development Allowance Authority Act 1992* has effect, in relation to the project, to the FAC and to the company, as if section 49 of that Act were repealed and the following section were substituted:

“49 Application for transfer

If:

- (a) either of the following applies to the FAC (the *transferor*):

- (i) plant expenditure is registered in the name of the FAC;
 - (ii) the FAC holds a certificate in relation to plant expenditure; and
- (b) the FAC has ceased, or proposes to cease, to carry out the project concerned; and
- (c) the company (the *transferee*) has taken over, or proposes to take over, the completion of the project (with or without modification); and
- (d) either:
- (i) the company has incurred, or proposes to incur, plant expenditure in carrying out the completion of the project (with or without modification); or
 - (ii) both:
 - (A) the company has incurred, or proposes to incur, expenditure in acquiring from the Commonwealth a unit of plant that was new in the hands of the FAC; and
 - (B) the acquisition has taken place, or will take place, in the course of the company's takeover, or proposed takeover, of the completion of the project (with or without modification);
- the company may apply to the DAA for a transfer of the benefits of the registration or certificate, as the case may be."

Part 9 Transfer of staff from the FAC to airport-lessee companies

Division 1 Simplified outline

Section 57

**Part 9—Transfer of staff from the FAC to
airport-lessee companies**

Division 1—Simplified outline

57 Simplified outline

The following is a simplified outline of this Part:

- If an airport lease is granted to a company, certain employees of the FAC will be transferred to the company.
- A transferred employee will have terms and conditions of employment that are similar to those he or she had before the transfer.
- Those terms and conditions can be varied in accordance with relevant awards etc.
- Before being transferred, employees will be given statements setting out particulars of accrued benefits.
- Special provision is made for:
 - (a) mobility rights; and
 - (b) long service leave; and
 - (c) superannuation; and
 - (d) the application of the *Safety, Rehabilitation and Compensation Act 1988*.

Division 2—Transfer of staff

58 Transfer of staff from the FAC

- (1) This section applies to an employee of the FAC.
- (2) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 21 or 22 on a specified day, a specified employee:
 - (a) ceases to be employed by the FAC immediately after the grant; and
 - (b) is taken to have been engaged by the company as an employee of the company immediately after the grant.
- (3) The Minister for Finance may, by written instrument, declare that, in the event that a specified company is granted an airport lease for a specified airport under section 22 on a specified day, a specified employee:
 - (a) ceases to be employed by the FAC immediately after the time ascertained in accordance with the instrument, being a time that occurs on that day and before the grant; and
 - (b) is taken to have been engaged by the company as an employee of the company immediately after that time.
- (4) A declaration under this section has effect accordingly.
- (5) If subsection (2) applies to an employee, the employee's *transfer time* occurs immediately after the grant.
- (6) If subsection (3) applies to an employee, the employee's *transfer time* occurs immediately after the time ascertained in accordance with the instrument.

Section 59

Division 3—Terms and conditions

59 Terms and conditions of transferred employees

- (1) A person who is a transferred employee is taken:
 - (a) to have been engaged by the company concerned on the same terms and conditions as those that applied to the person, immediately before the employee's transfer time, as an employee of the FAC; and
 - (b) to have accrued an entitlement to benefits, in connection with that engagement by the company concerned, that is equivalent to the entitlement that the person had accrued, as an employee of the FAC, immediately before the employee's transfer time.
- (2) The service of a transferred employee as an employee of the company concerned is taken, for all purposes, to have been continuous with the service of the employee, immediately before the employee's transfer time, as an employee of the FAC.
- (3) A transferred employee is not entitled to receive any payment or other benefit merely because he or she stopped being an employee of the FAC as a result of this Part.
- (4) A reference in paragraph (1)(a) to terms and conditions is a reference to terms and conditions that are set out in:
 - (a) a written contract of employment; or
 - (b) an award (as defined by section 4 of the *Industrial Relations Act 1988*).
- (5) This section has effect subject to this Part.

60 Variation of terms and conditions of employment

- (1) This Division does not prevent the terms and conditions of a transferred employee's employment after the employee's transfer time from being varied:
 - (a) in accordance with those terms and conditions; or
 - (b) by or under a law, award, determination or agreement.
- (2) In this section:

vary, in relation to terms and conditions, includes:

 - (a) omitting any of those terms and conditions; or
 - (b) adding to those terms and conditions; or

- (c) substituting new terms or conditions for any of those terms and conditions.

61 Statement of accrued benefits

- (1) Before the employment of an employee of the FAC is transferred under section 58, the FAC must give the employee a written statement setting out particulars of the benefits to which the employee has accrued an entitlement.
- (2) In any proceedings relating to paragraph 59(1)(b), the statement is prima facie evidence of the matters set out in the statement.
- (3) A failure by the FAC to comply with subsection (1) does not affect the validity of the transfer of the employment of the employee.

Division 4—Mobility rights

62 Cessation of mobility rights

(1) If:

- (a) Division 2 or 3 of Part IV of the *Public Service Act 1922* applied to an employee of the FAC immediately before the employee's transfer time; and
- (b) the airport-lessee company to whom the employee was transferred was not a public authority (within the meaning of that Part) immediately before that time;

then that Division ceases to apply to the employee at that time.

(2) If:

- (a) Division 4 of Part IV of the *Public Service Act 1922* applied to an employee of the FAC immediately before the employee's transfer time; and
- (b) the airport-lessee company to whom the employee was transferred was not a public authority (within the meaning of that Part) immediately before that time;

then:

- (c) the *Officers' Rights Declaration Act 1928*; and
 - (d) Division 4 of Part IV of the *Public Service Act 1922*;
- cease to apply to the employee at that time.

Division 5—Long service leave

63 Long service leave rules set out in Schedule 1

Schedule 1 has effect.

Part 9 Transfer of staff from the FAC to airport-lessee companies
Division 6 Superannuation

Section 64

Division 6—Superannuation

64 Superannuation rules set out in Schedule 2

Schedule 2 has effect.

**Division 7—Safety, Rehabilitation and Compensation Act
1988**

**65 *Safety, Rehabilitation and Compensation Act 1988* rules set out in
Schedule 3**

Schedule 3 has effect.

Part 10—FAC's debts

Division 1—Simplified outline

66 Simplified outline

The following is a simplified outline of this Part:

- The Treasurer may call up a loan made by the Commonwealth to the FAC.
- The Commonwealth may take over the FAC's obligations under a borrowing transaction (other than a loan made by the Commonwealth to the FAC).
- The Commonwealth may give the FAC money to enable the FAC to discharge or extinguish the FAC's liability under a borrowing transaction (other than a loan made by the Commonwealth to the FAC).

Division 2—Loans by the Commonwealth

67 Scope of Division

This Division applies to a loan to the FAC that was made by the Commonwealth.

68 Treasurer may declare that loan is due and payable

- (1) The Treasurer may, by written instrument, declare that the principal amount of a specified loan, together with any accrued interest, becomes due and payable at a specified time.
- (2) The declaration has effect accordingly.

Note: A loan may be specified by name, by inclusion in a specified class or in any other way.

69 Commonwealth may pay the FAC an amount equal to the amount owing

- (1) If an amount becomes due and payable to the Commonwealth because of section 68, the Minister for Finance may determine in writing that the Commonwealth is liable to pay the FAC an amount equal to that amount.
- (2) The determination has effect accordingly.
- (3) The amount payable under subsection (1) may be set-off against the amount that became due and payable because of section 68.
- (4) The amount payable under subsection (1) becomes part of the capital of the FAC.

70 Appropriation of Consolidated Revenue Fund

The Consolidated Revenue Fund is appropriated for the purposes of this Division.

Section 71

Division 3—Other borrowing transactions

71 Scope of Division

This Division applies to a borrowing transaction of the FAC (other than a loan to which Division 2 applies).

72 Borrowing transactions

- (1) For the purposes of this Division, a *borrowing transaction* is:
 - (a) a loan; or
 - (b) any other transaction that gives rise to a borrowing.
- (2) For the purposes of this section, *borrowing* includes borrowing, or otherwise raising money, by dealing in securities.
- (3) For the purposes of this section, the obtaining of credit is taken to be a borrowing of an amount equal to the value of the credit obtained.

73 FAC's borrowing transactions may become the Commonwealth's borrowing transactions

- (1) The Treasurer may, by notice in the *Gazette*, declare that, at a specified time, the FAC's obligations under a specified borrowing transaction:
 - (a) cease to be obligations of the FAC; and
 - (b) become obligations of the Commonwealth.
- (2) The declaration has effect accordingly.
- (3) The Treasurer may authorise the payment of money by the Commonwealth to discharge obligations to which the declaration applies.

Note: A borrowing transaction may be specified by name, by inclusion in a specified class or in any other way.

74 Commonwealth takeover of certain obligations of the FAC

- (1) This section applies to an obligation of the FAC under a borrowing transaction.
- (2) The Treasurer may, on behalf of the Commonwealth, enter into a contract to take over an obligation.
- (3) If the Treasurer enters into a contract under subsection (2), the Treasurer may authorise the payment of money to discharge the

Commonwealth's obligations under the contract, whether by terminating those obligations or otherwise.

75 Application of the *Loans Securities Act 1919*

Sections 5A, 5B, 5C and 5D (other than paragraphs (1)(c) and (2)(c)) of the *Loans Securities Act 1919* apply in relation to an obligation that is taken over by the Commonwealth under section 73 or 74 as if that obligation were a borrowing of money outside Australia:

- (a) that the Treasurer was authorised to make on behalf of the Commonwealth; and
- (b) that the Treasurer made accordingly.

76 Commonwealth takeover of obligations—payments by the FAC to the Commonwealth

- (1) This section applies if the FAC's obligations under a borrowing transaction are taken over under section 73 or 74.
- (2) The FAC must pay the Commonwealth an amount determined in writing by the Minister for Finance.
- (3) If the FAC pays the Commonwealth an amount under subsection (2), the Commonwealth must pay the FAC an amount equal to that amount.
- (4) The amount payable under subsection (2) may be set-off against the amount payable under subsection (3).
- (5) The amount payable under subsection (3) is payable by way of the provision of capital.

77 Commonwealth may pay the FAC an amount to enable the FAC to discharge or extinguish its liability under a borrowing transaction

- (1) The Minister for Finance may, determine in writing that there is to be paid to the FAC, at a specified time, a specified amount.
- (2) The determination has effect accordingly.
- (3) The amount is payable to the FAC subject to a condition that the amount is to be used by the FAC to discharge or extinguish the FAC's liability under a borrowing transaction specified in the determination.

Note: A borrowing transaction may be specified by name, by inclusion in a specified class or in any other way.

Part 10 FAC's debts
Division 3 Other borrowing transactions

Section 78

78 Appropriation of Consolidated Revenue Fund

The Consolidated Revenue Fund is appropriated for the purposes of this Division.

Part 11—Prosecutions

79 Simplified outline

The following is a simplified outline of this Part:

- If the Commonwealth sells its shares in an airport-lessee company, the Director of Public Prosecutions can continue to deal with matters that occurred when the company was owned by the Commonwealth.

80 Continuing application of the *Director of Public Prosecutions Act 1983*

- (1) This section applies to an airport-lessee company if the company was granted an airport lease under section 21.
- (2) If the *Director of Public Prosecutions Act 1983* ceases to apply to particular acts, omissions or proceedings in connection with an airport-lessee company at the company's sale time because the company ceases to be an authority of the Commonwealth for the purposes of that Act at that time, then, despite that cessation, that Act continues to apply in relation to:
 - (a) acts or omissions that occurred in relation to the company before the company's sale time; and
 - (b) civil remedies in respect of relevant matters relating to acts or omissions referred to in paragraph (a).
- (3) In this section:
relevant matter has the same meaning as in the *Director of Public Prosecutions Act 1983*.

Section 81

Part 12—Airport-lessee company not to be an agency of the Commonwealth etc.

81 Simplified outline

The following is a simplified outline of this Part:

- If a Commonwealth-owned company is granted an airport lease, the company is not treated as an agency of the Commonwealth.

82 Airport-lessee company not to be an agency of the Commonwealth etc.

- (1) This section applies to an airport-lessee company if the company was granted an airport lease under section 21.
- (2) The airport-lessee company is not taken, for the purposes of a law, to be:
 - (a) a Commonwealth authority; or
 - (b) established for a public purpose or for a purpose of the Commonwealth; or
 - (c) a public authority or an agency or instrumentality of the Crown;unless a law expressly provides otherwise.
- (3) In this section:

law means:

 - (a) an Act of the Commonwealth or of a State or Territory; or
 - (b) regulations or any other instrument made under such an Act.

Part 13—Miscellaneous

83 Simplified outline

The following is a simplified outline of this Part:

- Provision is made for the transfer of pending proceedings.
- The operation of this Act is not to be regarded as placing a person in breach of contract etc.
- The Consolidated Revenue Fund is appropriated for purposes in connection with the grant of an airport lease to a Commonwealth-owned company.
- This Act does not modify any register kept by a land registration official.
- Declarations that are contingent on the grant of an airport lease may be varied or revoked before the grant.
- Copies of declarations must be published in the *Gazette*.
- In order to provide a constitutional safety-net, compensation is payable in the event that the operation of this Act results in the acquisition of property otherwise than on just terms.
- Commonwealth records may only be transferred or otherwise dealt with in accordance with the provisions of the *Archives Act 1983*.
- The permission of the Australian Archives is required for the transfer of Commonwealth records to airport-lessee companies.
- This Act does not authorise the imposition of taxation.
- Regulations may be made for the purposes of this Act.

84 Transfer of pending proceedings

- (1) This section applies if, as a result of a declaration made by the Minister for Finance under this Act, a person (the *successor*) becomes the successor in law of another person (the *original person*) at a particular time in relation to a particular asset, liability, right, benefit or obligation.
- (2) If any proceedings to which the original person was a party:

Section 85

- (a) were pending in any court or tribunal immediately before that time; and
- (b) related, in whole or in part, to the asset, liability, right, benefit or obligation, as the case may be;

then, unless the Minister for Finance otherwise determines in writing in relation to the proceedings, the successor is, by force of this subsection, substituted for the original person as a party to the proceedings to the extent to which the proceedings relate to the asset, liability, right, benefit or obligation, as the case requires.

85 Operation of this Act does not place a person in breach of contract etc.

To avoid doubt, the operation of this Act is not to be regarded as:

- (a) placing a person in breach of contract or confidence; or
- (b) otherwise making a person guilty of a civil wrong; or
- (c) placing a person in breach of any contractual provision prohibiting, restricting or regulating:
 - (i) the assignment or transfer of any asset, liability, right or obligation; or
 - (ii) the disclosure of any information; or
- (d) releasing any surety from any of the surety's obligations in relation to a liability or obligation that is transferred to the Commonwealth or an airport-lessee company under this Act.

86 Appropriation—grant of airport lease to Commonwealth-owned company

- (1) The Consolidated Revenue Fund is appropriated for the purposes of the making of either or both of the following payments:
 - (a) a payment by the Commonwealth to a Commonwealth-owned company of an amount by way of a loan to enable the company to pay consideration for any or all or the following:
 - (i) the grant of an airport lease under section 21;
 - (ii) the transfer or lease of assets under section 23 or 24;
 - (iii) the transfer of assets under section 30 or 31;
 - (b) a payment by the Commonwealth to a Commonwealth-owned company by way of consideration for the issue to the Commonwealth of shares in the company, where the whole or a part of the proceeds of the issue are to be applied by the company in paying consideration for any or all or the following:

Section 87

- (i) the grant of an airport lease under section 21;
 - (ii) the transfer or lease of assets under section 23 or 24;
 - (iii) the transfer of assets under section 30 or 31.
- (2) For the purposes of this section, a *Commonwealth-owned company* is a company all of whose shares are beneficially owned by the Commonwealth.

87 This Act does not modify registers kept by land registration officials

This Act, in so far as it provides for the interpretation of references in other instruments, does not modify any register kept by a land registration official under a law of a State or Territory.

88 Declarations that are contingent on the grant of an airport lease may be varied or revoked before the grant

- (1) This section applies to a declaration under this Act that has effect in the event that a specified company is granted an airport lease for a specified airport on a specified day.
- (2) To avoid doubt, the declaration may be varied or revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, at any time before the specified day.

89 Copies of declarations to be published in the *Gazette*

- (1) This section applies to a declaration under any of the following provisions:
 - (a) section 11;
 - (b) section 12;
 - (c) section 13;
 - (d) section 14;
 - (e) section 23;
 - (f) section 24;
 - (g) section 25;
 - (h) section 30;
 - (i) section 31;
 - (j) section 33;
 - (k) section 58.
- (2) Within 21 days after the making of the declaration, a copy of the declaration is to be published in the *Gazette*.

Section 90

90 Compensation—constitutional safety-net

- (1) If:
- (a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;
- the Commonwealth is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this section:
- acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.
- just terms* has the same meaning as in paragraph 51(xxxi) of the Constitution.

91 Commonwealth records

- (1) This Act does not authorise a Commonwealth record (within the meaning of the *Archives Act 1983*) to be transferred or otherwise dealt with except in accordance with the provisions of that Act.
- (2) If an airport lease for an airport is granted to a company under section 21 or 22 of this Act, a Commonwealth record (within the meaning of the *Archives Act 1983*) must not be transferred to the company in connection with the operation of this Act in relation to the airport unless the Australian Archives has given permission for the transfer under paragraph 24(2)(b) of that Act.

92 Act does not authorise the imposition of taxation

This Act does not authorise the imposition of taxation within the meaning of section 55 of the Constitution.

93 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Part 14—Amendment of the Federal Airports Corporation Act 1986

94 Amendments

The *Federal Airports Corporation Act 1986* is amended as set out in Schedule 4.

Schedule 1—Long service leave

1 Scope of Schedule

- (1) This Schedule applies in relation to an airport-lessee company if the company was granted an airport lease under section 21 or 22.
- (2) This Schedule applies to an employee of an airport-lessee company if the employee was transferred to the company under section 58.

2 Definitions

- (1) Unless the contrary intention appears, expressions used in this Schedule that are also used in the Long Service Leave Act have the same meaning as in that Act.

- (2) In this Schedule:

combined service period, in relation to an employee, means the total of:

- (a) the period that was, immediately before the employee's transfer time, the employee's period of service for the purposes of the Long Service Leave Act; and
- (b) the period starting at the employee's transfer time during which the employee continues to be an employee of the company.

future long service leave rights, in relation to an employee, means any long service leave rights the employee acquires under an award, determination, industrial agreement or law (other than this Act) after the employee's transfer time in relation to service after that time.

law means:

- (a) a law of the Commonwealth, a State or a Territory; or
- (b) regulations or any other instrument (other than an award, determination or industrial agreement) made under such a law.

Long Service Leave Act has the meaning given by clause 3.

3 References to Long Service Leave Act

For the purposes of the application of this Schedule to a particular employee, a reference in this Schedule to the Long Service Leave Act is a reference to the *Long Service Leave (Commonwealth Employees) Act 1976* as in force immediately before the employee's transfer time.

4 Long service leave for employees with less than 10 years service**Summary of clause**

This clause provides that, in certain circumstances, an airport-lessee company may grant long service leave to an employee whose period of service for the purposes of the Long Service Leave Act was less than 10 years.

- (1) This clause applies in relation to an employee if, at the employee's transfer time, the employee's period of service for the purposes of the Long Service Leave Act was less than 10 years.
- (2) This clause does not apply in relation to an employee who dies while in the employment of an airport-lessee company. Clause 6 covers such employees.
- (3) If the employee continues to be employed by an airport-lessee company after the employee's transfer time until his or her combined service period is at least 10 years, the company may grant the employee long service leave on full salary for a period up to the employee's long service leave credit under subclause 7(1).
- (4) If:
 - (a) the employee stops being an employee of an airport-lessee company on or after reaching the minimum retirement age, or because of retrenchment; and
 - (b) the employee's combined service period at the time when he or she stops being an employee of the company is at least one year;the company may grant the employee long service leave on full salary for a period of up to the employee's long service leave credit under subclause 7(1).
- (5) If a period of long service leave may be granted to an employee under subclause (3) or (4), the company may, if the employee asks in writing, grant the employee long service leave on half salary for a period that is not more than twice the first-mentioned period.
- (6) Long service leave granted in the circumstances set out in subclause (4) is to be taken so as to end immediately before the employee stops being an employee.
- (7) For the purposes of this clause, the rate of salary to be used in working out the full salary of an employee is the rate that would be applicable to the employee under section 20 of the Long Service Leave Act if:
 - (a) that section applied to the employee; and

Clause 5

- (b) for the expression "section 16 or 17" in that section there were substituted the expression "clause 4 of Schedule 1 to the *Airports (Transitional) Act 1996*".

5 Payments in lieu of long service leave for employees with less than 10 years service

Summary of clause

This clause provides that, in certain circumstances, an airport-lessee company must pay an amount in respect of long service leave to an employee who has not used all of his or her long service leave credit by taking long service leave under clause 4.

- (1) This clause applies in relation to an employee if, at the employee's transfer time, the employee's period of service for the purposes of the Long Service Leave Act was less than 10 years.
- (2) This clause does not apply in relation to an employee who dies while in the employment of an airport-lessee company. Clause 6 covers such employees.
- (3) Subject to subclause (6), if the employee stops being an employee of an airport-lessee company on or after the day on which his or her combined service period reaches 10 years, the company must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subclause 7(2).
- (4) Subject to subclause (6), if:
- (a) at a particular time, the employee stops being an employee of an airport-lessee company on or after reaching the minimum retiring age, or because of retrenchment; and
 - (b) at that time, the employee's combined service period is at least one year;
- the company must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subclause 7(2).
- (5) Subject to subclause (6), if:
- (a) the employee stops being an employee of an airport-lessee company; and
 - (b) the company is satisfied that the employee left the company because of ill-health that justified his or her so leaving; and
 - (c) when the employee left, his or her combined service period was at least one year;
- the company must pay him or her an amount equal to full salary in respect of his or her long service leave credit under subclause 7(2).

- (6) An employee may, by written notice given to an airport-lessee company before the employee stops being an employee of the company:
- (a) request the company not to make a payment to the employee under this clause; or
 - (b) request the company to make a payment under subclause (3), (4) or (5) of a stated amount that is less than the amount that would otherwise be payable under that subclause.
- (7) The company must comply with a request made under subclause (6).
- (8) For the purposes of this clause, the rate of salary to be used in working out the full salary of an employee is the rate that would be applicable to the employee under section 21 of the Long Service Leave Act if:
- (a) that section applied to the employee; and
 - (b) for the expression "sections 16 and 17" in that section there were substituted the expression "clause 5 of Schedule 1 to the *Airports (Transitional) Act 1996*".

6 Payments on the death of an employee

Summary of clause

This clause applies in relation to an employee if, at the employee's transfer time, the employee's period of service for the purposes of the Long Service Leave Act was less than 10 years.

- (1) If, after the employee's transfer time, the employee dies and immediately before his or her death:
- (a) the employee was an employee of an airport-lessee company; and
 - (b) the employee's combined service period was at least one year; and
 - (c) the employee had one or more dependants;
- the company must make a payment to a dependant or to 2 or more dependants of the employee.
- (2) The total amount of the payment or payments is the amount that would have been payable to the employee under clause 5 if, on the day of his or her death, the employee had stopped being an employee of the company on or after reaching the minimum retiring age.

Clause 7

- (3) If subclause (1) applies, section 23 of the Long Service Leave Act has effect as if:
- (a) that section applied to an employee of an airport-lessee company; and
 - (b) a reference in that section to the approving authority were a reference to the company; and
 - (c) for the expression “this Act” in that section there were substituted the expression “clause 6 of Schedule 1 to the *Airports (Transitional) Act 1996*”; and
 - (d) for the expression “subsection 16(7) or 17(5)” in that section there were substituted the expression “clause 6 of Schedule 1 to the *Airports (Transitional) Act 1996*”.

7 Employee’s long service leave credit for the purposes of clauses 4 and 5

- (1) For the purposes of clause 4, an employee’s long service leave credit is equal to the long service leave credit that the employee would have under the Long Service Leave Act for the period:
- (a) starting when the employee started his or her period of service; and
 - (b) ending at the employee’s transfer time;
- if the employee had been retrenched at the employee’s transfer time.
- (2) For the purposes of clause 5, an employee’s long service leave credit is the employee’s long service leave credit worked out under subclause (1) of this clause, reduced by any long service leave credit used under clause 4.

8 Schedule not to affect an employee’s future long service leave rights

To avoid doubt, it is declared that this Schedule does not affect an employee’s future long service leave rights.

9 Saving—Long Service Leave Act

- (1) This clause applies to an employee who, immediately before the employee’s transfer time, was an employee of the FAC whose period of service under the Long Service Leave Act was at least 10 years.
- (2) Even though the employee ceases to be employed in Government Service for the purposes of the Long Service Leave Act, the employee’s accrued rights under that Act continue if the employee

becomes an employee of an airport-lessee company at the employee's transfer time. However, the employee is not entitled to receive any payment because he or she ceases to be in Government Service.

- (3) The Long Service Leave Act has effect after the employee's transfer time as if the company were an approving authority for the purposes of that Act.

Schedule 2—Superannuation

Part 1—When this Schedule applies

1 When this Schedule applies

This Schedule (other than Division 3 of Part 2) applies to an airport-lessee company if:

- (a) the company was granted an airport lease under section 21;
or
- (b) the company was granted an airport lease under section 22 and, at any time before the grant of the lease, a majority of the voting shares in the company were held by:
 - (i) the Commonwealth; or
 - (ii) a nominee of the Commonwealth.

Part 2—Superannuation schemes

Division 1—Transfer of staff from the FAC

2 Commonwealth-owned airport-lessee companies

For the purposes of this Division, an airport-lessee company is *Commonwealth-owned* at a particular time if, and only if, that time is before the company's sale time.

3 Deferred benefits under the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This clause applies in relation to an employee of a Commonwealth-owned airport-lessee company (the *current company*) if:
 - (a) the employee was transferred to the current company, or any other company, under section 58; and
 - (b) immediately before the employee's transfer time, the employee was a person to whom deferred benefits were applicable under section 78 of the *Defence Force Retirement and Death Benefits Act 1973*; and
 - (c) either:
 - (i) since the employee's transfer time, the employee has been continuously employed by the current company; or
 - (ii) throughout the period beginning at the employee's transfer time and ending immediately before the time when the employee last became an employee of the current company, each employer of the employee was a Commonwealth-owned airport-lessee company.
- (2) For the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*, the employee is taken to continue in public employment until:
 - (a) the employee ceases to be employed by the current company;
or
 - (b) the sale time for the current company;whichever comes first.
- (3) Subclause (2) is subject to Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.

Clause 4

- (4) This clause does not prevent Division 2 of this Part from applying to the employee.

Note: Division 2 deals with the employee's position after the sale time for the current company.

4 Period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This clause applies in relation to an employee of a Commonwealth-owned airport-lessee company (*the current company*) if:
- (a) the employee was transferred to the current company, or any other company, under section 58; and
 - (b) immediately before the employee's transfer time, a particular period of employment of the employee by the FAC was a period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.
- (2) The period of employment continues to be a period of eligible employment for the purposes of that Division.

Division 2—Sale of airport-lessee companies owned by the Commonwealth

5 Deferred benefits under the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This clause applies in relation to an airport-lessee company if, immediately before the company's sale time, an employee of the company was a person to whom deferred benefits were applicable under section 78 of the *Defence Force Retirement and Death Benefits Act 1973*.
- (2) For the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*, the employee is taken to continue in public employment, after the company's sale time, while the employee continues to be employed by the company.
- (3) This clause is subject to Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.

6 Period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This clause applies in relation to an airport-lessee company if, immediately before the company's sale time, a particular period of employment of a person by the company was a period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.
- (2) If employment by the company ceases to be eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973* at the company's sale time, then, despite that cessation, the period of employment continues to be a period of eligible employment for the purposes of that Division.

Schedule 2 Superannuation

Part 2 Superannuation schemes

Division 3 Transfer of staff to airport-lessee companies that are not owned by the Commonwealth

Clause 7

Division 3—Transfer of staff to airport-lessee companies that are not owned by the Commonwealth

7 Deferred benefits under the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This clause applies in relation to an employee of an airport-lessee company that was granted an airport lease under section 22 if:
 - (a) the employee was transferred to the company under section 58; and
 - (b) immediately before the employee's transfer time, the employee was a person to whom deferred benefits were applicable under section 78 of the *Defence Force Retirement and Death Benefits Act 1973*.
- (2) For the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*, the employee is taken to continue in public employment, after the employee's transfer time, while the employee continues to be employed by the company.
- (3) This clause is subject to Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.

8 Period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*

- (1) This clause applies in relation to an employee of an airport-lessee company that was granted an airport lease under section 22 if:
 - (a) the employee was transferred to the company under section 58; and
 - (b) immediately before the employee's transfer time, a particular period of employment of the employee was a period of eligible employment for the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*.
- (2) For the purposes of Division 3 of Part IX of the *Defence Force Retirement and Death Benefits Act 1973*, a particular period of employment that begins at the employee's transfer time continues to be a period of eligible employment for the purposes of that Division, so long as the period of employment is a period of employment by the company.

Part 3—The Crimes (Superannuation Benefits) Act 1989

9 Continuing application of the *Crimes (Superannuation Benefits) Act 1989*

Continuing application of Act

- (1) Subject to subclause (2), if a person who was an employee of an airport-lessee company before the company's sale time committed a corruption offence while such an employee, then, after the company's sale time, the *Crimes (Superannuation Benefits) Act 1989* continues to apply in relation to the person in respect of the offence as if the company continued to be a Commonwealth authority.

Limitation on superannuation orders

- (2) A superannuation order may not be made under the *Crimes (Superannuation Benefits) Act 1989* in relation to employer contributions or benefits paid or payable to a superannuation scheme by an airport-lessee company after the company's sale time.

Superannuation schemes

- (3) A superannuation scheme in relation to which employer contributions or benefits are paid or payable by an airport-lessee company after the company's sale time is not a superannuation scheme for the purposes of the application of the *Crimes (Superannuation Benefits) Act 1989* to a corruption offence committed by a person after the company's sale time.

Paragraph 19(3)(d) orders

- (4) Despite paragraph 19(3)(d) of the *Crimes (Superannuation Benefits) Act 1989*, for the purposes of the application of that Act to an airport-lessee company, an order made under that paragraph after the company's sale time may only specify that an amount paid into the Consolidated Revenue Fund before the company's sale time by or on behalf of the company belongs to the Commonwealth.

Clause 9

Paragraph 19(4)(b) orders

(5) If:

- (a) a person who was an employee of an airport-lessee company before the company's sale time committed a corruption offence while such an employee; and
- (b) the person was paid benefits before or after the company's sale time out of the Consolidated Revenue Fund;

then, despite paragraph 19(4)(b) of the *Crimes (Superannuation Benefits) Act 1989*, for the purposes of the application of that Act to the corruption offence, an order made under that paragraph after the company's sale time may only specify that an amount equal to the total benefits paid out of the Consolidated Revenue Fund be paid to the Commonwealth.

Interpretation

- (6) Unless the contrary intention appears, an expression used in this clause that is also used in the *Crimes (Superannuation Benefits) Act 1989* has the same meaning in this clause as it has in that Act.

Part 4—The Superannuation Benefits (Supervisory Mechanisms) Act 1990

10 An airport-lessee company is not to be an eligible or relevant body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*

Eligible body notice

- (1) A notice published in the *Gazette* before an airport-lessee company's sale time that declares the company to be an eligible body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* has effect, after the company's sale time, as if the notice did not contain a reference to the company.

Relevant body notice

- (2) A notice published in the *Gazette* before an airport-lessee company's sale time that declares the company to be a relevant body for the purposes of the *Superannuation Benefits (Supervisory Mechanisms) Act 1990* has effect, after the company's sale time, as if the notice did not contain a reference to the company.

Amendment or revocation of notice

- (3) Subclauses (1) and (2) do not prevent a declaration affected by either of those subclauses from being amended or revoked by the Minister.

Definition

- (4) In this clause:
Minister has the same meaning as in the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

Clause 1

Schedule 3—Safety, Rehabilitation and Compensation Act 1988

1 Definitions

Unless the contrary intention appears, expressions used in this Schedule that are also used in the *Safety, Rehabilitation and Compensation Act 1988* have the same meanings as in that Act.

2 SRC Act continues to apply to transferred employees

- (1) This clause applies to a transferred employee.
- (2) The *Safety, Rehabilitation and Compensation Act 1988* continues to apply, after the employee's transfer time, in relation to:
 - (a) injuries suffered by the employee before the employee's transfer time; and
 - (b) loss of, or damage to, property incurred by the employee before the employee's transfer time.

3 Commonwealth liable to meet certain SRC Act liabilities and is taken to be the employer in certain circumstances under the SRC Act

- (1) This clause applies to a transferred employee.
- (2) After the employee's transfer time, the Commonwealth:
 - (a) is liable to pay the liabilities of the FAC under section 128A of the *Safety, Rehabilitation and Compensation Act 1988*, in so far as they relate to the employee; and
 - (b) is taken to have been the employee's employer before the employee's transfer time for the purposes of the *Safety, Rehabilitation and Compensation Act 1988*.
- (3) Paragraph (2)(b) has effect subject to clauses 5 and 6.

4 Airport-lessee company to co-operate with the Commonwealth

After the employee's transfer time, the airport-lessee company concerned must provide such reasonable co-operation and assistance as the Commonwealth requires to enable the Commonwealth to fulfil its obligations under sections 36, 37, 38, 39, 41 and 41A of the *Safety, Rehabilitation and Compensation Act 1988*.

5 Section 40 of the SRC Act

After the employee's transfer time, the airport-lessee company concerned is taken to be the relevant employer of the employee for the purposes of section 40 of the *Safety, Rehabilitation and Compensation Act 1988*.

6 Section 71 of the SRC Act

After the employee's transfer time, the airport-lessee company concerned is taken to be a Commonwealth authority for the purposes of section 71 of the *Safety, Rehabilitation and Compensation Act 1988*.

7 Section 108C of the SRC Act

This Act does not prevent section 108C of the *Safety, Rehabilitation and Compensation Act 1988* from applying to an airport-lessee company.

Schedule 4—Amendment of the Federal Airports Corporation Act 1986

1 Section 6

After “Corporation are”, insert “as follows”.

2 Paragraph 6(b)

Omit “and” (last occurring).

3 After paragraph 6(b)

Insert:

(ba) to assist the Commonwealth and other persons in connection with any or all of the following:

- (i) the implementation of the *Airports (Transitional) Act 1996*;
- (ii) preparatory work associated with the implementation of the *Airports Act 1996*;
- (iii) matters relating to the leasing, or proposed leasing, of an airport (within the meaning of the *Airports (Transitional) Act 1996*) that was or is a Federal airport or a Federal airport development site, including matters relating to the transfer, or proposed transfer, of responsibility for such an airport to an airport-lessee company (within the meaning of the *Airports (Transitional) Act 1996*);

4 After subsection 7(2)

Insert:

(2A) Subsection (2) (other than paragraph (2)(a)) does not apply to the function conferred by paragraph 6(ba).

5 Paragraph 13(1)(d)

Repeal the paragraph, substitute:

- (d) if the Minister decides to appoint one or more other members—not more than 6 other members.

6 Subsection 21(6)

Repeal the subsection, substitute:

- (6) At a meeting of the Board, a quorum is constituted by the greater of:
- (a) 3 members; or
 - (b) the number of members that constitutes a majority of the members for the time being holding office.

7 Subsection 40(1)

Omit "41(2)", substitute "41(1A) or (2)".

8 After subsection 41(1)

Insert:

- (1A) The Minister may, by notice in writing to the Board, give directions to the Corporation with respect to the performance of its functions, or the exercise of its powers, if the Minister is satisfied that the directions would be likely to facilitate any or all of the following:
- (a) the implementation of the *Airports (Transitional) Act 1996*;
 - (b) preparatory work associated with the implementation of the *Airports Act 1996*;
 - (c) matters relating to the leasing, or proposed leasing, of an airport (within the meaning of the *Airports (Transitional) Act 1996*) that was or is a Federal airport or a Federal airport development site, including matters relating to the transfer, or proposed transfer, of responsibility for such an airport to an airport-lessee company (within the meaning of the *Airports (Transitional) Act 1996*).

9 Subsections 41(3) and (4)

After "subsection", insert "(1A) or".

10 Transitional

The amendment made by item 5 does not affect the appointment of a person who held office as a member immediately before the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 23 May 1996
Senate on 30 May 1996]*