

EXPLANATORY STATEMENT

Statutory Rules 1987 No.256

Conciliation and Arbitration Regulations (Amendment)

(Issued by the Authority of the Minister of State for Industrial Relations)

The Federal Airports Corporation Act 1986 received the Royal Assent on 4 March and was proclaimed to commence operation on 13 June 1986. This Act establishes the Federal Airports Corporation as a body corporate with perpetual succession. The primary function of the Corporation is the operation of Federal airports within Australia.

As a body corporate established under a law of the Commonwealth the Corporation came within the definition of "Commonwealth authority" in subsection 70A(1) of Division 1A of Part III of the Act. Division 1A gives the Australian Conciliation and Arbitration Commission ("the Commission") jurisdiction in respect of industrial disputes and industrial matters affecting Commonwealth and Territory employees.

The definition of "Commonwealth authority" in subsection 70A(1) of the Act states that:

"'Commonwealth authority' means -

- (a) a body corporate established for a public purpose by or under a law of the Commonwealth or an Ordinance of the Australian Capital Territory; or
- (b) a company or other body corporate incorporated under a law of the Commonwealth or of a State or Territory, being a company or other body corporate in which the Commonwealth has a controlling interest;

other than -

(c) ...

(d) ...

- (e) a body declared by the regulations to be a body to which this definition does not apply;"

The definition therefore enables regulations to be made excluding particular Commonwealth authorities from the definition and therefore from the operation of Division 1A of Part III of the Act. A number of Commonwealth authorities have already been excluded from the definition by regulation 164AAC of the Principal Regulations. The effect of such an exclusion from Division 1A is to bring the relevant authority within the general jurisdiction of the Commission contained in Division 1 of Part III of the Act.

It has been decided to exclude the Corporation from the definition of "Commonwealth authority". The decision to do so was based upon the Corporation's commercially orientated operation and is consistent with the exemptions already made for other major Government enterprises.

Accordingly, the amending regulation provides for the exclusion of the Corporation from the definition of "Commonwealth authority" and therefore from the operation of Division 1A of Part III of the Act.

Regulation 164AAC sets out the bodies declared to be bodies to which the definition of Commonwealth authority does not apply.

The regulation amends regulation 164AAC by the inclusion of a reference to the Federal Airports Corporation as a body to which the definition of "Commonwealth authority" in subsection 70A(1) of the Act does not apply.