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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

OMEGA NAVIGATION FACILITY BILL 1982

EXPLANATORY MEMORANDUM

(circulated by the authority of the Minister for Transport and
Construction, the Hon. R.J. Hunt)

OUTLINE

This Bill is intended to ensure that the Australian Omega navigation facility at Darriman and the monitoring facility at Carrajung, both in Victoria, can be operated without interruption by the withdrawal of or interference with the supply of goods and services to the facility.

The need for the Bill derives from the exchange of notes constituting the agreement between the Governments of Australia and the United States of America. The terms of the agreement (reproduced in the Schedule to the Bill) provide for the two Governments to 'use their best endeavours to ensure the continuous operation of their respective facilities in phase with the world-wide Omega system'.

The Bill will provide the Minister with the power to direct a person who ordinarily supplies goods or services to supply such goods or services. A refusal to carry out such a direction or the obstruction of the supply of goods and services are defined in the Bill as offences.

A right to compensation is provided for persons who suffer loss or damage as a result of compliance with a direction by the Minister.

The Bill will expressly exclude the operation of any law of a State or Territory that would otherwise prevent or obstruct the operation or maintenance of the facility. The application of certain provisions of the Commonwealth Places (Application of Laws) Act 1970 will be set aside to ensure that the Commonwealth can prosecute offenders under its own general criminal laws rather than rely on such action by a State. Further, the Bill will ensure the complementary operation of other relevant Commonwealth legislation such as the Lighthouses Act 1911, Crimes Act 1914, Air Navigation Act 1920 and Crimes (Aircraft) Act 1963 which provide protection against interference with navigational aids and create a variety of offences for trespass or damage to Commonwealth property.

CLAUSE 1

Provides for the citation of the Bill.

CLAUSE 2

Provides that the legislation is to come into operation on a date to be fixed by Proclamation. It is intended that this would only be done if it became apparent that interruption to the operation of the facility was threatened.

CLAUSE 3

Defines expressions used in the Bill.

Sub-clause (1) provides that:

'goods' includes water, gas and electricity;

'Omega navigation facility' means the navigation facility established in Victoria in accordance with the agreement between the Governments of Australia and the United States of America;

'supply', in relation to goods, means to sell, lease or hire and includes the provision of services.

Sub-clause (2) extends the provisions of the Bill to any land or buildings used for the purposes of the facility.

CLAUSE 4

Provides that the Bill is intended to facilitate the Commonwealth in discharging its powers with respect to external affairs, trade and commerce and places acquired by the Commonwealth for public purposes.

Sub-clause (2) provides that it is intended to secure the co-operation and assistance of the States and their authorities.

CLAUSE 5

Provides that the Bill will bind the Crown in right of the Commonwealth, the States and the Northern Territory.

CLAUSE 6

Provides for the exclusion of certain State and Territory laws.

Sub-clause (1) provides that any State or Territory law or subordinate legislation that would prevent or obstruct the operation or maintenance of the facility or that would prevent a person from doing any prescribed act or thing will be excluded from operation.

Sub-clause (2) provides that the imposition of any condition, restriction or requirement on the doing of any prescribed act or thing shall be taken to be an obstruction.

Sub-clause (3) provides that any State or Territory laws or legislation capable of operating concurrently with the proposed Act shall not be excluded or limited.

CLAUSE 7

Provides that the Minister will have power to direct a person who ordinarily supplies goods or services to supply such goods and services where the Minister is satisfied that those goods and services are required for use in connection with the facility.

CLAUSE 8

Sub-clause (1) provides that it will be an offence to prevent, hinder or obstruct a person supplying goods or services for use in connection with the facility.

Sub-clauses (2) and (3) define the persons in respect of whom the offence may arise.

Sub-clause (4) provides that it will be an offence for a person to prevent, hinder or obstruct the obtaining of access to the facility by a person authorised by the Minister.

Sub-clause (5) provides that it will be an offence for a person to fail without reasonable excuse to comply with a direction given by the Minister under Clause 7.

Sub-clause (6) provides that it will not be a reasonable excuse for a failure to comply with a direction that a person believes a State or Territory law or the terms or conditions of employment or an order given by a person having authority over him in his employment prohibits the carrying out of the direction.

CLAUSE 9

Provides that the Commonwealth shall be liable to pay compensation to a person who suffers loss or damage or whose property is acquired as a result of the operation of the legislation. The clause also provides that in default of agreement between the Commonwealth and the affected person the amount of compensation will be decided by the Federal Court of Australia.

CLAUSE 10

Provides that the Minister will have power to certify that persons are authorised persons or directed persons. His certificate shall be prima facie evidence of the matters stated therein.

CLAUSE 11

Ensures that Commonwealth law including general criminal laws shall have full application to the facility. Commonwealth criminal procedures, normally suspended from application by virtue of the Commonwealth Places (Application of Laws) Act 1970, will be given effect in respect of the facility.

CLAUSE 12

Provides that the Minister may delegate his powers under the Bill.

CLAUSE 13

Provides that the Governor-General may make regulations prescribing matters required or permitted by the Bill.

SCHEDULE

The schedule provides, for information, the text of the agreement between Australia and the United States of America.

