

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA
BILL, 2007

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THE SCHEDULE.

Bill No. 72 of 2007

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA
BILL, 2007

A

BILL

to provide for the establishment of an Airports Economic Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Airports Economic Regulatory Authority of India Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies to—

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to or subject to the control of the Armed Forces or paramilitary Forces of the Union;

Short title,
commencement
and
application.

- (b) all private airports and leased airports;
- (c) all civil enclaves;
- (d) all major airports.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “aeronautical service” means any service provided—

(i) for navigation, surveillance and supportive communication thereto for air traffic management;

(ii) for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;

(iii) for providing ground safety services at an airport;

(b) “airport” means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

22 of 1934.

(c) “airport user” means any person availing of passenger facilities at an airport;

(d) “Appellate Tribunal” means the Airports Economic Regulatory Authority Appellate Tribunal established under section 17;

(e) “Authority” means the Airports Economic Regulatory Authority established under sub-section (1) of section 3;

(f) “civil enclave” means an area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(g) “Chairperson” means the Chairperson of the Authority appointed under sub-section (2) of section 4;

(h) “leased airport” means an airport in respect of which a lease has been made under section 12A of the Airports Authority of India Act, 1994;

55 of 1994.

(i) “major airport” means any airport which has, or is designated to have, annual passenger throughout in excess of one and a half million or any other airport as the Central Government may, by notification, specify as such;

(j) “Member” means a Member of the Authority and includes the Chairperson;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “private airport” has the same meaning as assigned to it in clause (m) of section 2 of the Airports Authority of India Act, 1994;

55 of 1994.

(m) “regulations” means regulations made by the Authority under this Act;

(n) “service provider” means any person who provides aeronautical services and is eligible to levy and charge user development fees from the embarking passengers at any airport and includes the authority which manages the airport;

(o) words and expressions used but not defined in this Act and defined in the Airports Authority of India Act, 1994 shall have the same meanings respectively assigned to them in that Act.

55 of 1994.

CHAPTER II

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY

Establishment
of Authority.

3. (1) The Central Government shall, within three months from the date of commencement of this Act, by notification in the Official Gazette, establish an Authority, to be known as the Airports Economic Regulatory Authority, to exercise the powers conferred on, and the functions assigned to it, by or under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

4. (1) The Authority shall consist of a Chairperson and two other Members to be appointed by the Central Government:

Composition of Authority.

Provided that whenever the Authority is deciding a matter involving a civil enclave in a defence airfield, there shall be an additional Member, not below the rank of Additional Secretary on the Authority, to be nominated by the Ministry of Defence.

(2) The Chairperson and Members of the Authority shall be appointed by the Central Government from amongst persons of ability and integrity having adequate knowledge of, and professional experience in, aviation, economics, law, commerce or consumer affairs:

Provided that a person who is or has been in the service of Government shall not be appointed as a Member unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central or State Government for a total period of not less than three years.

(3) The Chairperson and other Members shall be whole time members.

(4) The Chairperson or other Members shall not hold any other office.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The Chairperson and other Members of the Authority shall be appointed by the Central Government on the recommendation of Selection Committee referred to in section 5.

5. (1) The Central Government shall, for the purpose of sub-section (6) of section 4 constitute a Selection Committee consisting of the following, namely:—

Constitution of Selection Committee to recommend Members.

(a) Cabinet Secretary — Chairman;

(b) Secretary, in the Ministry of Civil Aviation — Member;

(c) Secretary, Department of Legal Affairs in the Ministry of Law and Justice — Member;

(d) Secretary, in the Ministry of Defence — Member;

(e) One expert to be nominated by the Ministry of Civil Aviation — Member.

(2) The Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of any Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

6. (1) The Chairperson and other Members, shall hold office, as such, for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Terms of office and other conditions of service, etc., of Chairperson and Members.

Provided that no Chairperson or other Member shall hold office, as such, after he attains —

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of any other Member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after their appointment.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may,—

(a) relinquish his office by giving, in writing to the Central Government, a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 8.

(5) The Chairperson or any Member ceasing to hold office, as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office;

(b) not accept any commercial employment including private for a period of two years from the date he ceases to hold such office; or

(c) not represent any person before the Authority in any other manner.

Explanation.—For the purposes of this sub-section,—

(a) “employment under the Central Government or State Government” includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(b) “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Power of
Chairperson.

7. The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

Removal and
suspension of
Members.

8. (1) The Central Government may, by order, remove from office the Chairperson or other Member, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) has engaged at any time during his term of office in any other employment.

(2) The Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehavior or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend any Member in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

9. (1) The Central Government may appoint a Secretary to discharge his functions under this Act.

Appointment of Secretary, experts, professionals and officers and other employees of Authority.

(2) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Authority and the number of such officers and other employees shall be such as may be prescribed.

(4) The Authority may engage, in accordance with the procedure specified by regulations such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to aviation as it deems necessary to assist the Authority in the discharge of its functions under this Act.

10. (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be determined by regulations.

Meetings.

(2) The Chairperson shall preside at the meeting of the Authority and if for any reason the Chairperson is unable to attend a meeting of the Authority, any other Member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting and, in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (1), every Member shall have one vote.

11. All orders and decisions of the Authority shall be authenticated by signatures of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.

Authentication.

12. No act or proceedings of the Authority shall be invalid merely by reason of —

(a) any vacancy in, or any defect in, the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Vacancies, etc., not to invalidate proceedings of Authority.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

13. (1) The Authority shall perform the following functions in respect of major airports, namely:—

Functions of Authority.

(a) to determine the tariff for the aeronautical services taking into consideration—

(i) the capital expenditure incurred and timely investment in improvement of airport facilities;

- (ii) the service provided, its quality and other relevant factors;
- (iii) the cost for improving efficiency;
- (iv) economic and viable operation of major airports;
- (v) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;
- (vi) any other factor which may be relevant for the purposes of this Act:

Provided that different tariff structures may be determined for different airports having regard to all or any of the above considerations specified at sub-clauses (i) to (vi);

(b) to determine the amount of the development fees in respect of major airports;

(c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934;

22 of 1934.

(d) to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf;

(e) to call for such information as may be necessary to determine the tariff under clause (a);

(f) to perform such other functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

(2) The Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so determined.

(3) While discharging its functions under sub-section (1) the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions, *inter alia*,—

(a) by holding due consultations with all stake-holders with the airport;

(b) by allowing all stake-holders to make their submissions to the authority; and

(c) by making all decisions of the authority fully documented and explained.

14. (1) Where the Authority considers it expedient so to do, it may by order in writing—

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its functions as the Authority may require to access the performance of the service provider; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1)—

(a) every office of the Government department, if such service provider is a department of the Government; or

(b) every director, manager, secretary or other officer, if such service provider is a company; or

(c) every partner, manager, secretary or other officer, if such service provider is a firm; or

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) or (c),

Powers of Authority to call for information, conduct investigations, etc.

shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to monitor the performance of the service providers as it may consider necessary for proper functioning by service providers.

15. The Authority may, for the purpose of discharge of its functions under this Act, issue, from time to time to the service providers, such directions, as it may consider necessary.

Power of Authority to issue certain directions.

16. The Authority or any other officer specially authorised by it in this behalf may enter any building or place where the Authority has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

Power of seizure.

2 of 1974.

CHAPTER IV APPELLATE TRIBUNAL

17. The Central Government shall, by notification in the Official Gazette, establish an Appellate Tribunal to be known as the Airports Economic Regulatory Authority Appellate Tribunal to—

Establishment of Appellate Tribunal.

(a) adjudicate any dispute—

(i) between two or more service providers;

(ii) between a service provider and a group of consumer:

Provided that the Appellate Tribunal may, if considers appropriate, obtain the opinion of the Authority on any matter relating to such dispute:

Provided further that nothing in this clause shall apply in respect of matters—

(i) relating to the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

54 of 1969.

(ii) relating to the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986;

68 of 1986.

12 of 2003.

(iii) which are within the purview of the Competition Act, 2002.

55 of 1994.

(iv) in respect of an order of eviction which is appealable under section 28K of the Airports Authority of India Act, 1994.

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

18.(1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute as referred to in clause (a) of section 17.

Application for settlement of disputes and appeals to Appellate Tribunal.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-section (1), or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to deposing of such application or appeal and make such orders as it thinks fit.

Composition
of Appellate
Tribunal.

19.(1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification in the Official Gazette, by the Central Government:

Provided that the Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India or his nominee.

Qualifications
for appoint-
ment of Chair-
person and
Members.

20. A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;

(b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a total period of not less than two years in the Ministries or Departments dealing with aviation or economics or law or a person who is well-versed in the field of aviation or economics or law.

Term of office.

21. The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-five years.

<p>22. The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:</p>	<p>Terms and conditions of service.</p>
<p>Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.</p>	
<p>23. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.</p>	<p>Vacancies.</p>
<p>24. (1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who—</p>	<p>Removal and resignation.</p>
<p>(a) has been adjudged an insolvent; or</p>	
<p>(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or</p>	
<p>(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or</p>	
<p>(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or</p>	
<p>(e) has so abused his position as to render his continuance in office prejudicial to the public interest.</p>	
<p>(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought on such grounds to be removed.</p>	
<p>(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.</p>	
<p>25. (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.</p>	<p>Staff of Appellate Tribunal.</p>
<p>(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.</p>	
<p>(3) The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.</p>	
<p>26. If the Chairperson and other Members differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.</p>	<p>Decision to be by majority.</p>
<p>27. The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.</p>	<p>Members, etc., to be public servants.</p>
<p>28. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.</p>	<p>Civil court not to have jurisdiction.</p>

Procedure and powers of Appellate Tribunal.

29. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure. 5 of 1908.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document, from any office; 1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it, *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it, *ex parte*; and

(i) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Right to legal representation.

30. The applicant or appellant may either appear in person or authorises one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Explanation.— For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act; 38 of 1949.

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act; 56 of 1980.

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959, and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act; 23 of 1959.

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

Appeal to Supreme Court.

31.(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code. 5 of 1908.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

32. (1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

Orders passed by Appellate Tribunal to be executable as a decree.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

33. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government, for information.

Budget.

34. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Authority.

Grants by Central Government.

35. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Annual statement of accounts.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

36. (1) The Authority shall furnish to the Central Government, at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require.

Furnishing of returns, etc., to Central Government.

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

OFFENCES AND PENALTIES

Penalty for wilful failure to comply with orders of Appellate Tribunal.

37. If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

Punishment for non-compliance of orders and directions of this Act.

38. Whoever fails to comply with any order or direction given under this Act, or contravenes, or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of a continuing contravention with an additional fine which may extend to four thousand rupees for every day during which the default continues.

Punishment for non-compliance with order of the Authority or Appellate Tribunal.

39. If any person wilfully fails to comply with an order of the Authority or of the Appellate Tribunal, passed under Chapter IV, he shall be punishable with fine which may extend to one lakh rupees and, in the case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of a continuing failure, with an additional fine which may extend to four thousand rupees for every day during which such failure continues.

Offences by companies.

40. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” means a whole-time director in the company and in relation to a firm, means a partner in the firm.

Offences by Government Departments.

41. (1) Where an offence under this Act has been committed by any Department of Government or any of its undertakings, the Head of the Department or its undertakings shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by any Department of Government or its undertakings and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, or its undertakings such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER VII

MISCELLANEOUS

42. (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

Directions by Central Government.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. The Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members, officers and employees of Authority to be public servants.

44. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

Bar of jurisdiction.

45. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

Protection of action taken in good faith.

27 of 1957.
43 of 1961.

46. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Exemption from tax on wealth and income.

47. No court shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

Cognizance of offences.

48. The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes and the power to make regulations), as it may deem necessary.

Delegation of powers.

49. (1) If, at any time, the Central Government is of opinion—

Power of Central Government to supersede Authority.

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Application of other laws not barred.

50. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to make rules.

51. (1) The Central Government may, by notification in Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to, and the other conditions of service of, the Chairperson and other Members under sub-section (2) of section 6;

(b) the form and manner in which and the Authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (4) of section 6;

(c) the powers and functions to be exercised or discharged by the Chairperson under section 7;

(d) the procedure for conducting any inquiry made under sub-section (2) of section 8;

(e) the salaries and allowances payable to, and the other terms and conditions of service of the Secretary, officers and other employees of the Authority under sub-section (3) of section 9;

(f) the performance standards relating to the quality, continuity and reliability of service to be monitored under clause (d) of sub-section (1) of section 13;

(g) the books of account or other documents which are required to be maintained by the service provider under sub-section (3) of section 14;

(h) the form and manner in which the form shall be verified and fee to be accompanied by the form under sub-section (3) of section 18;

(i) the salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Appellate Tribunal under section 22;

(j) the salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal under sub-section (3) of section 25;

(k) the matters in respect of which the Authority will have the powers of a civil court under clause (a) of sub-section (2) of section 29;

(l) the form in which the Authority shall prepare, and at such time in each financial year, its budget and the time at which such budget shall be prepared under section 33;

(m) the form in which proper accounts and other relevant records shall be maintained and the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 35;

(n) the form, manner and the time in which the returns and statements shall be furnished by the Authority under sub-section (1) of section 36;

(o) the form and time at which the annual report, shall be prepared by the Authority under sub-section (2) of section 36;

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

52. (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the purposes of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure in accordance with which the experts and professionals may be engaged under sub-section (4) of section 9;

(b) the places and time of meetings of the Authority and the procedure to be followed at such meetings, (including the quorum at its meetings) under sub-section (1) of section 10;

(c) any other matter which is required to be, or may be, specified by regulations.

53. Every rule made by the Central Government, and every regulation made by the Authority, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

54. The enactments specified in the Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

Amendment of certain enactments.

Power to
remove
difficulties.

55. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SCHEDULE

[See section 54]

AMENDMENT TO THE AIRCRAFT ACT, 1934

(22 OF 1934)

Section 5, sub-section (2), clause (ab), for “or revision on tariff of operators of air transport services”, substitute “or revision on tariff of operators of air transport services [other than the tariff referred to in clause (a) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2007]”.

AMENDMENT TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

(55 OF 1994)

1. Section 22A, for the portion beginning with the words “The Authority may” and ending with the words “for the purposes of —”, substitute the following:—

“The Authority may,—

(i) after the previous approval of the Central Government in this behalf, levy on, and collect from, the embarking passengers at an airport other than the major airports referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2007 the development fees at the rate as may be prescribed;

(ii) levy on, and collect from, the embarking passengers at major airport referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2007 the development fees at the rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2007,

and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of—”

2. Section 41, in sub-section (2), clause (ee), for “the rate of development fees and”, substitute—

“the rate of development fees in respect of airports other than major airports and”.

STATEMENT OF OBJECTS AND REASONS

Most of the civil airports, including civil enclaves at Defence Airports, are presently controlled by the Airports Authority of India (the Airports Authority) in the Ministry of Civil Aviation. The Airports Authority, with the approval of the Central Government, fixes the aeronautical charges for the airports under its control and prescribes the performance standards to all airports and monitor the same. Airport infrastructure Policy formulated in 1997 provides for the private sector participation for improving quality, efficiency and increasing competition. As a result of this initiative, Greenfield airports are now coming up at Bangalore and Hyderabad in Public-Private-Partnership. A private airport is already fully operational at Cochin. Delhi and Mumbai Airports have also been restructured through the Joint Venture route for modernization and development. The trends indicate growing competition and a requirement of level playing field amongst different categories of airports in future.

2. At present, the Airports Authority performs the role of airport operator as well as the regulator, which results in conflict of interest. This situation has often led to complaints of a mis-match between the aeronautical charges levied by the Airports Authority and the quality of services rendered at airports which are controlled by the Airports Authority. The Naresh Chandra Committee, set up by the Central Government to prepare the road map for civil aviation sector has recommended for setting up of an independent regulatory authority.

3. In the above background, it is felt that an independent economic regulator, namely, the Airports Economic Regulatory Authority (the Regulatory Authority), may be established so as to create a level playing field and foster healthy competition amongst all major airports to encourage investment in airport facilities to regulate tariffs for aeronautical services, etc. It is, therefore, considered necessary to enact a law for the establishment of the Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals.

4. The Airports Economic Regulatory Authority of India Bill, 2007, *inter alia*, seeks to provide for—

(i) establishment of Regulatory Authority which shall consist of a Chairperson and two Members to be appointed by the Central Government;

(ii) laying down the powers and functions of the Regulatory Authority to determine the tariff structure for aeronautical services; to determine the amount of development fees in respect of major airports; to determine the amount of passenger service fee; to monitor the performance standards relating to quality, continuity and reliability of service;

(iii) establishment of an Appellate Tribunal consisting of a Chairperson and not more than two Members to be appointed by the Central Government;

(iv) laying down the functions of the Appellate Tribunal to adjudicate disputes between two or more service providers or between a service provider and a group of consumers, and to hear and dispose of appeals against any direction, decision or order of the Regulatory Authority under this Act;

(v) imposing penalties in cases of wilful non-compliance of the orders or directions given under the Act;

(vi) the powers of the Central Government to issue directions in the matter of policy involving public interest.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 14th August, 2007.

PRAFUL PATEL.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. AV.20036/32/2005-AAI dated the 16th August, 2007 from Shri Parful Patel, Minister of State for Civil Aviation to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Airport Economic Regulatory Authority of India Bill, 2007, recommends introduction of the Bill in the House under article 117(1) of the Constitution and the consideration of the Bill under article 117(3) of the Constitution.

Notes on clauses

Clause 2.—This clause defines certain expressions used in the proposed legislation.

Clause 3.—This clause relates to establishment of Authority.

This clause provides that the Central Government shall, within three months from the date of commencement of this proposed legislation, establish an Authority, to be known as the Airports Economic Regulatory Authority, to exercise the powers conferred on, and the functions assigned to, it by or under this proposed legislation. The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued. The head office of the Authority shall be at such place as the Central Government may specify.

Clause 4.—This clause relates to composition of Authority.

This clause, *inter alia*, provides that the Authority shall consist of a Chairperson and two other Members to be appointed, on the recommendation of Selection Committee referred to in clause 5 by the Central Government from amongst persons of ability and integrity having adequate knowledge of, and professional experience in, aviation, economics, law, commerce or consumer affairs. However, whenever the Authority is deciding a matter involving a civil enclave in a defence airfield, there shall be an additional Member, not below the rank of Additional Secretary on the Authority, to be nominated by the Ministry of Defence. It further provides that a person who is or has been in the service of Government shall not be appointed as a Member unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central or State Government for a total period of not less than three years. The Chairperson and other Members shall be whole-time Members. It also provides that the Chairperson or whole-time Members, if any, shall not hold any other office.

Clause 5.—This clause relates to constitution of Selection Committee to recommend Members.

This clause provides that the Central Government shall, for the purpose of sub-clause (6) of clause 4 constitute a Selection Committee. The Chairperson of the Selection Committee shall be the Cabinet Secretary. The Members of the Selection Committee shall be (a) the Secretary in the Ministry of Civil Aviation—Member; (b) the Secretary Department of Legal Affairs in the Ministry of Law and Justice—Member; (c) the Secretary, in the Ministry of Defence—Member; (d) one expert to be nominated by the Ministry of Civil Aviation. It further provides that the Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of any Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy and the Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it. The Selection Committee shall recommend a panel of two names for every vacancy referred to it and before recommending any person for appointment as a Chairperson or other Members of the Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

Clause 6.—This clause relates to the terms of office and other conditions of service, etc., of Chairperson and Members.

This clause, *inter alia*, provides that the Chairperson and other Members, shall hold office, as such, for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment. The Chairperson shall not hold office, as such, after he attains the age of sixty-five years and other Members shall not hold office, as such, after he attains the age of sixty-two years. The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed. The Chairperson or any Member ceasing to hold office, as such, shall (a) not be eligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office; (b) not accept any commercial employment including private for a period of two years from the date he ceases to hold such office; or (c) represent any person before the Authority in any other manner. This clause also defines the expressions (a) “employment under the Central Government or State Government”; and (b) “commercial employment”. The Chairperson or any Member can, relinquish his office by giving in writing to the Central Government notice of not less than three months; or be removed from his office in accordance with the provisions of clause 6.

Clause 7.—This clause relates to the powers of Chairperson.

This clause provides that the Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

Clause 8.—This clause relates to the removal and suspension of Members.

This clause contains the grounds on which the Chairperson and other Members of the Authority may be removed from office or suspended.

Clause 9.—This clause relates to the appointment of Secretary, experts, professionals and officers and other employees of Authority.

This clause confers power upon (a) the Central Government to appoint a Secretary; (b) the Authority to appoint such officers and other employees as it considered necessary for the efficient discharge of its functions under the proposed legislation. It further provides that the salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Authority and the number of such officers and other employees shall be such as may be prescribed. It also confers power upon the Authority to engage, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to aviation as it deems necessary to assist it in the discharge of its functions under this proposed legislation.

Clause 10.—This clause relates to the meetings.

This clause provides that the Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be determined by regulations. It further provides that the Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, any other Member chosen by the Members present from amongst themselves at the meeting shall preside at the meeting. All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting and, in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote. Every Member shall have one vote.

Clause 11.—This clause relates to the authentication.

This clause provides that all orders and decisions of the Authority shall be authenticated by signatures of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.

Clause 12.—This clause relates to the vacancies, etc., not to invalidate proceedings of Authority.

This clause provides that no act or proceedings of the Authority shall be invalid merely by reason of (a) any vacancy in, or any defect in the constitution of, the Authority; or (b) any defect in the appointment of a person as a Member of the Authority; or (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 13.—This clause relates to the functions of the Authority.

This clause specifies the functions to be performed in respect of the major airports, by the Authority. The functions to be performed by the Authority shall be (a) to determine the tariff for the aeronautical services taking into certain considerations specified in items (a)(i) to (a)(vi) of sub-clause (1) of this clause. The Authority can determine different tariff structures for different airports having regard to all or any of the above considerations specified in said sub-clauses (i) to (vi); (b) to determine the amount of the development fees in respect of major airports; (c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934; (d) to monitor set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf; (e) to call for such information as may be necessary to determine the tariff under clause (a); (f) to perform such other functions relating to tariff as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this proposed legislation. This clause further provides that the Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so fixed. It also provides that while discharging its functions, the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality and it shall ensure transparency in the manner specified in sub-clause (4) of this clause while exercising its power and discharging its functions.

Clause 14.—This clause relates to the powers of Authority to call for information, conduct investigations, etc.

This clause provides that where the Authority considers it expedient so to do, it may by order in writing (a) call upon any service provider at any time to furnish in writing such information or explanation relating to its functions as the Authority may require; or (b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and (c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

It further provides that where any inquiry in relation to the affairs of a service provider has been undertaken under sub-clause (1), certain persons of the service provider referred to in this sub-clause and every officer of the Government department, if such service provider is a department of the Government, shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

This clause also provides that every service provider shall maintain such books of account or other documents as may be specified by rules made by the Central Government.

This clause also confers power upon the Authority shall have the power to issue such directions to service providers as it may consider necessary for proper functioning by service providers.

Clause 15.—This clause relates to the power of the Authority to issue certain directions.

This clause provides that the Authority may, for the purpose of discharge of its functions under this proposed legislation, issue, from time to time to the service providers, such directions, as it may consider necessary.

Clause 16.—This clause relates to the power of seizure.

This clause provides that the Authority or any other officer specially authorised in this behalf by it may enter any building or place where the Authority has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

Clause 17.—This clause relates to the establishment of Appellate Tribunal.

This clause provides that the Central Government shall, by notification, establish an Appellate Tribunal to be known as the Airports Economic Regulatory Authority Appellate Tribunal to adjudicate any dispute between two or more service provider and between service provider and a group of consumers. The Appellate Tribunal may, if considers appropriate obtain the opinion of the Authority on any matter relating to such dispute. However, provisions of this clause shall apply in respect of matters (i) relating to the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969; (ii) relating to the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Proposed Legislation, 1986; (iii) which are within the purview of the Competition Act, 2002; (iv) in respect of an order of eviction which is appealable under section 28K of the Airport Authority of India Act, 1994. The Appellate Tribunal has also been conferred power to hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

Clause 18.—This clause relates to the power of the application for settlement of disputes and appeals to Appellate Tribunal.

This clause, *inter alia*, provides that the Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute as referred to in sub-clause (a) of clause 17. The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority can prefer an appeal to the Appellate Tribunal. Every appeal should be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person. However, the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period. This clause also provides that the application made under sub-clause (1) or the appeal preferred under sub-clause (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be. The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

This clause also confers power upon the Appellate Tribunal to call, on its own motion or otherwise, for the records relevant to deposing of such application or appeal for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-clause (1), or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-clause (2) and make such orders as it thinks fit.

Clause 19.—This clause relates to the composition of Appellate Tribunal.

This clause provides that the Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification, by the Central Government. However, the Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this proposed legislation.

It further provides that the selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India or his nominee.

Clause 20.—This clause relates to the qualifications for appointment of Chairperson and Members.

This clause provides that (a) a person shall not be qualified for appointment as the Chairperson of the Appellate Tribunal unless he, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court; and (b) a person shall not be qualified for appointment as the Member of the Appellate Tribunal unless he has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a total period of not less than two years in the Ministries or Departments dealing with aviation, economics or law, or a person who is well-versed in the field of aviation or economic or law.

Clause 21.—This clause relates to the term of office.

This clause provides that the Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office. This clause further provides that the Chairperson shall not hold office as such after he has attained the age of seventy years and the Members shall not hold office as such after he has attained the age of sixty-five years.

Clause 22.—This clause relates to the terms and conditions of service.

This clause provides that the salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be specified by rules made by the Central Government. However, neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

Clause 23.—This clause relates to the vacancies.

This clause provides that if, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this proposed legislation to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Clause 24.—This clause relates to the removal and resignation.

Sub-clause (1) provides that the Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who (a) has been adjudged an insolvent; or (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or (c) has become physically or mentally incapable of acting as the Chairperson or a Member; or (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or (e) has so abused his position as to render his continuance in office prejudicial to the public interest. This clause further provides the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of sub-clause (1) unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought on such grounds to be removed. It also provides that the Central Government can suspend from office, the

Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-clause (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

Clause 25.—This clause relates to the staff of Appellate Tribunal.

This clause provides that the Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit and the officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson. The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.

Clause 26.—This clause relates to the decision to be by majority.

This clause provides that if the Chairperson and other Members differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

Clause 27.—This clause relates to the Members, etc., to be public servants.

This clause provides that the Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 28.—This clause relates to the civil court not to have jurisdiction.

This clause provides that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this proposed legislation to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this proposed legislation.

Clause 29.—This clause relates to the procedure and powers of Appellate Tribunal.

This clause, *inter alia*, provides that the Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this proposed legislation, the Appellate Tribunal shall have powers to regulate its own procedure and the Appellate Tribunal shall have, for the purposes of discharging its functions under this proposed legislation, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the matters specified in sub-clause (2) of this clause. It also provides that every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Clause 30.—This clause relates to the right to legal representation.

This clause provides that the applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioner or any of its officers to present his or its case before the Appellate Tribunal. This clause also defines “chartered accountant”, “company secretary”, “cost accountant” and “legal practitioner” for the purpose of this clause.

Clause 31.—This clause relates to the appeal to the Supreme Court.

This clause provides that, an appeal shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, lie against any order (not being an interlocutory order) of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code. However, no appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties. This clause further provides that every appeal under this clause shall be preferred within a period of ninety days from the date of the decision or order appealed against. However, the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is

satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

Clause 32.—This clause relates to the orders passed by Appellate Tribunal to be executable as a decree.

This clause provides that an order passed by the Appellate Tribunal under the proposed legislation shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court, the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

Clause 33.—This clause relates to the budget.

This clause provides that the Authority shall prepare, in such form and at such time in each financial year as may be specified by rules made by the Central Government, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government, for information.

Clause 34.—This clause relates to the Grants by the Central Government.

This clause provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Authority.

Clause 35.—This clause relates to the annual statement of accounts.

Sub-clause (1) provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India. It requires that the accounts of the Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him. It also requires that the accounts of the Authority, as certified by Comptroller and Auditor General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Clause 36.—This clause relates to the furnishing of returns, etc., to the Central Government.

This clause, *inter alia*, contains provisions for furnishing to the Central Government such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government, may from time to time, require. This clause further requires the Authority to prepare, once every year, an annual report, giving a summary of its proposed activities during the previous year and copies of the report shall be forwarded to the Central Government. It also requires that a copy of the report received shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

Clause 37.—This clause relates to the penalty for wilful failure to comply with orders of Appellate Tribunal.

This clause provides that if any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

Clause 38.—This clause relates to the punishment for non-compliance of orders and directions of this proposed legislation.

This clause provides that whoever fails to comply with any order or direction given under the proposed legislation, or contravenes, or attempts to contravene or abets the

contravention of the provisions of the proposed legislation or of any rules or regulations made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a second or a subsequent offence with fine which may extend to two lakhs rupees and in the case of a continuing contravention with an additional fine which may extend to four thousand rupees for every day during which the default continues.

Clause 39.—This clause relates to the punishment for non-compliance with order of the Authority or Appellate Tribunal.

This clause provides that if any person wilfully fails to comply with an order of the Authority or of the Appellate Tribunal, passed under Chapter IV of the proposed legislation, he shall be punishable with fine which may extend to one lakh rupees and, in the case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of a continuing failure, with an additional fine which may extend to four thousand rupees for every day during which such failure continues.

Clause 40.—This clause relates to the offences by companies.

This clause, *inter alia*, provides that where an offence under the proposed legislation has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. However, such person shall not be liable to any punishment provided in this proposed legislation, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Clause 41.—This clause relates to the offences by the Government Departments.

This clause provides that where an offence under this proposed legislation has been committed by any Department of Government or any of its undertakings, the Head of the Department, or its undertakings shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

It further provides that where an offence under this proposed legislation has been committed by any Department of Government or its undertakings and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department or its undertakings, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Clause 42.—This clause relates to the directions by the Central Government.

This clause confers power upon the Central Government may, issue from time to time, such directions to the Authority, as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality. It further provides that the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. It also provides that the decision of the Central Government whether a question is one of policy or not shall be final.

Clause 43.—This clause relates to the Members, Officers and employees of the Authority to be public servants.

This clause provides that the Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 44.—This clause relates to the bar of jurisdiction.

This clause provides that no civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this proposed legislation to determine.

Clause 45.—This clause relates to the protection of action taken in good faith.

This clause provides that no suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or, any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this proposed legislation or the rules and regulations made thereunder.

Clause 46.—This clause relates to the exemption from tax on wealth and income.

This clause provides that the Authority shall, notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other law for the time being in force relating to tax on wealth, income, profits or gains, be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Clause 47.—This clause relates to the cognizance of offences.

This clause provides that no court shall take cognizance of an offence punishable under this proposed legislation, except upon a complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

Clause 48.—This clause relates to the delegation of powers.

This clause confers power upon the Authority, delegate, by general or special order in writing to the Chairperson or any Member or officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this proposed legislation (except the power to settle disputes and the power to make regulations), as it may deem necessary.

Clause 49.—This clause relates to the power of the Central Government to supersede Authority.

This clause confers power upon the Central Government to supersede, by notification in the Official Gazette, the Authority for such period, not exceeding six months. The grounds on which the Authority can be superseded on the grounds mentioned in this sub-clause. This clause further provides that upon the publication of a notification under sub-clause (1) superseding the Authority, (a) all the Members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this proposed legislation, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-clause (3), be exercised and discharged by such person or persons as the Central Government may direct; (c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-clause (3), vest in the Central Government. On the expiration of the period of supersession specified the notification issued under sub-clause (1), the Central Government may, (a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or (b) re-constitute the Authority by fresh appointment and in such case the Members who vacated their offices under item (a) of sub-clause (2) of this clause shall not be deemed disqualified for appointment. This clause also provides that the Central Government shall cause a notification issued under sub-clause (1) and a full report of any action taken under this clause and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Clause 50.—This clause relates to the application of other laws not barred.

This clause provides that the provisions of this proposed legislation shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Clause 51.—This clause relates to the power to make rules.

This clause confers power upon the Central Government to make rules to carry out the

provisions of this proposed legislation. The matters in respect of which rules may be made are specified in sub-clause (2) of this clause.

Clause 52.—This clause relates to the power to make regulations.

This clause confers power upon the Authority to make, with the previous approval of the Central Government, regulations, not inconsistent with this proposed legislation, and the rules made thereunder, to carry out the purposes of this proposed legislation. The matters in respect of which regulations may be made are specified in sub-clause (2) of this clause.

Clause 53.—This clause relates to the rules and regulations to be laid before Parliament.

This clause requires that every rule made by the Central Government, and every regulation made by the Authority, under this proposed legislation shall be laid before each House of Parliament.

Clause 54.—This clause relates to the amendment of the Aircraft Act, 1934 and the Airports Authority of India Act, 1994. The proposed amendments are of consequential nature and amendments shall take effect on the date of establishment of the Authority.

Clause 55.—This clause relates to the power to remove difficulties.

This clause confers power upon the Central Government to make, by order, published in the Official Gazette, such provisions, not inconsistent with the provisions of this proposed legislation, as may appear to it to be necessary for removing the difficulty, if any, which arises in giving effect to the provisions of this proposed legislation. However, no such order shall be made under this clause after the expiry of two years from the date of commencement of this proposed legislation. This clause further requires that every order made under this clause shall be laid before each House of Parliament.

FINANCIAL MEMORANDUM

1. Clause 3 of the Bill provides for the establishment of an Authority to be known as the Airport Economic Regulatory Authority within three months from the date of commencement of this Act, consisting of a Chairperson and two other Members to be appointed by the Central Government. Clause 9 provides that the Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act. Clause 17 provides for the establishment of an Appellate Tribunal to be known as Airports Economic Regulatory Authority Appellate Tribunal consisting of a Chairperson and not more than two Members to be appointed by the Central Government. Clause 25 provides that the Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit. Clause 34 of the Bill provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension to or in respect of officers and other employees of the Authority.

2. The details of recurring and non-recurring expenditure for the establishment of the Airport Economic Regulatory Authority and Airport Economic Regulatory Authority Appellate Tribunal shall be as under :—

STATEMENT SHOWING EXPENSES (Rs. IN LACS)

PARTICULARS	RECURRING	NON-RECURRING	TOTAL
AIRPORTS ECONOMIC REGULATORY AUTHORITY	265.25	87.53	352.78
AIRPORTS ECONOMIC REGULATORY AUTHORITY APPELLATE TRIBUNAL	104	34.67	138.67
TOTAL	369.25	122.2	491.45

3. The Bill will not involve any other expenditure of recurring or non-recurring nature, except routine type of expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 51 of the Bill confers power upon the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which such rules may be made relate, *inter alia*, to (a) the salary and allowances payable to, and the other conditions of service of, the Chairperson and Members under sub-section (2) of section 6; (b) the form and the manner in which and the Authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (4) of section 6; (c) the powers and functions to be exercised or discharged by the Chairperson under section 7; (d) the procedure for conducting any inquiry made under sub-section (2) of section 8; (e) the salaries and allowances payable to, and the other terms and conditions of service, of the Secretary officers and other employees of the Authority under sub-section (3) of section 9; (f) the performance standards relating to the quality, continuity and reliability of service to be monitored under clause (d) of sub-section (1) of section 13; (g) the books of account or other documents which are required to be maintained by the service provider under sub-section (3) of section 14; (h) the form and manner in which the form shall be verified and fee to be accompanied by the form under sub-section (3) of section 18; (i) the salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal under section 22; (j) the salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal under sub-section (3) of section 25; (k) the matters in respect of which the Authority will have the powers of a civil court under clause (a) of sub-section (2) of section 29; (l) the form in which the Authority shall prepare, and at such time in each financial year, its budget and the time at which such budget shall be prepared under section 33; (m) the form in which proper accounts and other relevant records shall be maintained and the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 35; (n) the form, manner and the time in which the returns and statements shall be furnished by the Authority under sub-section (1) of section 36; (o) the form and time at which the annual report shall be prepared by the Authority under sub-section (2) of section 36; (p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

2. Clause 52 of the Bill confers power upon the Authority to make, with the previous approval of the Central Government, regulations consistent with the Act and the rules made thereunder to carry out the purposes of the Act. The matters in respect of which, such regulations may be made, relate, *inter alia*, to (a) the procedure in accordance with which the experts and professionals may be engaged under sub-section (4) of section 9; (b) the places and time of meetings of the Authority and the procedure to be followed at such meetings, (including the quorum at its meetings) under sub-section (1) of section 10; (c) any other matter which is required to be, or may be specified by regulations.

3. The rules made by the Central Government and the regulations made by the Authority shall be laid as soon as may be, after they are made, before each House of the Parliament.

4. The matters in respect of which rules and regulations may be made are generally matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE AIRCRAFT ACT, 1934

(22 OF 1934)

*	*	*	*	*	
	*	*	*	*	*
5. (1)					
(2) Without prejudice to the generality of the foregoing power, such rules may provide for—					Power to Central Government to make rules.
<p>(ab) the economic regulation of civil aviation and air transport services, including the approval, disapproval or revision of tariff of operators of air transport services; the officers or authorities who may exercise powers in this behalf; the procedure to be followed and the factors to be taken into account by such officers or authorities; appeals to the Central Government against orders of such officers or authorities and all other matters connected with such tariff.</p> <p><i>Explanation.</i>—For the purposes of this clause, "tariff" includes fares, rates, valuation charges and other charges for air transport of passengers or goods, the rules, regulations, practices or services affecting such fares, rates, valuation charges and other charges and the rates, terms and conditions of commission payable to passenger of cargo sales agents;</p>					
*	*	*	*	*	*

EXTRACTS FROM THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

(55 OF 1994)

*	*	*	*	*	
	*	*	*	*	*
22A.					
The Authority may, after the previous approval of the Central Government in this behalf, levy on, and collect from, the embarking passengers at an airport, the development fees at the rate as may be prescribed and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of—					Power of Authority to levy development fees at airports.
<p>(a) funding or financing the costs of upgradation, expansion or development of the airport at which the fee is collected; or</p> <p>(b) establishment or development of a new airport in lieu of the airport referred to in clause (a); or</p> <p>(c) investment in the equity in respect of shares to be subscribed by the Authority in companies engaged in establishing, owning, developing, operating or maintaining a private airport in lieu of the airport referred to in clause (a) or advancement of loans to such companies or other persons engaged in such activities.</p>					
*	*	*	*	*	*
41. (1)	*	*	*	*	*
(2) In particular and without procedure to the generality for the foregoing power, such rules may provide for—					Power to make rules.
<p>(ee) the note of development fees and the manner or regulating and utilising the fees under section 22A;</p>					
*	*	*	*	*	*

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to provide for the establishment of an Airports Economic Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals and for matters connected therewith or incidental thereto.

(Shri Praful Patel, Minister of Civil Aviation)