

Bill No. 59 of 2018

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA
(AMENDMENT) BILL, 2018

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BILL

to amend the Airports Economic Regulatory Authority of India Act, 2008.

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

1. (1) This Act may be called the Airports Economic Regulatory Authority of India (Amendment) Act, 2018. Short title and commencement.

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

27 of 2008. 2. In section 2 of the Airports Economic Regulatory Authority of India Act, 2008 (hereinafter referred to as the principal Act), in clause (i), for the words “one and a half million”, the words “three and a half million” shall be substituted. Amendment of section 2.

10 3. In section 13 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 13.

“(1A). Notwithstanding anything contained in sub-sections (1) and (2), the Authority shall not determine the tariff or tariff structures or the amount of development

fees in respect of an airport or part thereof, if such tariff or tariff structures or the amount of development fees has been incorporated in the bidding document, which is the basis for award of operatorship of that airport:

Provided that the Authority shall be consulted in advance regarding the tariff, tariff structures or the amount of development fees which is proposed to be incorporated in the said bidding document and such tariff, tariff structures or the amount of development fees shall be notified in the Official Gazette.” 5

STATEMENT OF OBJECTS AND REASONS

The Airports Economic Regulatory Authority of India Act, 2008 (the Act) was enacted to provide for the establishment of an Airports Economic Regulatory Authority (the 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. The Authority is an independent economic regulator for protection of interests of airports, airlines and passengers.

2. Over the last few years, India has emerged as the third largest domestic aviation market in the world and the number of major airports has increased from 12 to 27 during the period 2007-2017. Exponential growth of the Sector has added tremendous pressure to the Authority. Further, various private operators are entering the Sector as part of Public-Private Partnership which requires regulatory certainty keeping in view the long gestation of the Sector. To overcome this complexity, it is felt that if too many airports come under the purview of the Authority, it will be difficult on the part of the Authority to efficiently determine the tariffs and monitor the service standards of major airports with the limited resources available with the Authority.

3. For engaging private partners in the infrastructure projects, several models are followed such as predetermined tariff or tariff based bidding and the airport project is awarded to the concessionaire who offers the lowest tariff or accepts predetermined tariff indexed to inflation throughout the concession period. In this model, the market itself determines the charges and the regulator is not required to fix charges after the award of the project. The Act, in present form, does not cover airports to be operated under such model. Since this model is a means to reduce the airport charges, the airports in future may also be developed under this model.

4. In view of the above, it is proposed to amend the Airports Economic Regulatory Authority of India Act, 2008 through the Airports Economic Regulatory Authority of India (Amendment) Bill, 2018 which proposes to—

(a) amend the definition of “major airport” as any airport which has, or is designated to have, annual passengers throughput in excess of three and a half million instead of existing one and a half million; and

(b) amend section 13 of the Act so as to capture the tariff models which are part of bidding process in the Act.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th February, 2018.

P. ASHOK GAJAPATHI RAJU

FINANCIAL MEMORANDUM

The Bill has no financial implications and does not involve any other expenditure of recurring or non-recurring nature from the Consolidated Fund of India.

ANNEXURE

EXTRACTS FROM THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA ACT, 2008

(27 OF 2008)

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

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

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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) revenue received from services other than the aeronautical services;

(vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;

(vii) 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 (vii);

(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 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.

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LOK SABHA

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to amend the Airports Economic Regulatory Authority of India Act, 2008.

(Shri P. Ashok Gajapathi Raju, Minister of Civil Aviation)