

Bill No. XX of 2019

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA
(AMENDMENT) BILL, 2019

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

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Airports Economic Regulatory Authority of India (Amendment) Act, 2019. 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 5 in the said bidding document and such tariff, tariff structures or the amount of development fees shall be notified in the Official Gazette.”.

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 on the one hand and various private operators are entering the Sector in the form of Public Private Partnership on the other hand which requires regulatory certainty keeping in view 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, 2019 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 objectives.

NEW DELHI;
The 5th July, 2019.

HARDEEP SINGH PURI

ANNEXURE

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

(27 OF 2008)

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Definitions.

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

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

(Shri Hardeep Singh Puri, Minister of State (Independent Charge) of the Ministry of Housing and Urban Affairs; Minister of State (Independent Charge) of the Ministry of Civil Aviation; and Minister of State in the Ministry of Commerce and Industry)