

AIRPORT AND AVIATION SERVICES
(OPERATING COMPANY) BILL 1991

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"Minister" means the Minister for the time being charged with the responsibility for civil aviation;

Act 3. "operating company" means the company nominated and licensed under subsection 24A(1) of the Civil Aviation Act 1969;

"property" includes all property, movable or immovable, and all estates, interests, easements and rights, whether equitable or legal, in, to or out of property, choses-in-action, money and goodwill; and "vested" in relation to property includes rights to property which are future or contingent and rights in reversion and remainder;

"rights" means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

"vesting date" means the date on which property, rights and liabilities of the Government of Malaysia are transferred to and vested in the operating company as specified by the Minister from time to time in the order under subsection 3 (1).

PART II
VESTING OF PROPERTY, ETC.,
IN OPERATING COMPANY

Vesting provisions.

3. (1) Subject to this Act, the Minister may, from time to time, by order published in the *Gazette*, appoint a vesting date and on such date all property, rights or liabilities of the Government of Malaysia relating to civil aviation specified by the Minister in such order shall by virtue of this Act be transferred to and vested in the operating company without any conveyance, assignment or transfer whatever.

(2) Every property vested by subsection (1) in the operating company shall be so vested in the company for the like title, estate or interest and on the like tenure as the same was vested or held immediately before the vesting date.

(3) Every chose-in-action vested by virtue of subsection (1) in the operating company may, after the vesting date, be sued on, recovered or enforced by the company in its own name and it shall not be necessary for

the company or the Government of Malaysia to give notice to the person bound by the chose-in-action of the vesting effected by subsection (1).

(4) Every right and liability vested by subsection (1) in the operating company may, on and after the vesting date, be sued on, recovered or enforced by or against the company in its own name and it shall not be necessary for the company or the Government of Malaysia to give notice to the person whose right or liability is affected by the vesting under subsection (1).

(5) Any pending legal proceedings by or against the Government of Malaysia which relate to any property, right or liability transferred to and vested in the operating company by virtue of subsection (1) may on and after the vesting date be continued by or against the operating company.

(6) In the case of rights and liabilities arising under any loans which vest in the operating company on the vesting date, the company may enter into such arrangements or agreements over such rights and liabilities with the Government of Malaysia or any third party.

(7) Where by the operation of subsection (1), any property is transferred to and vested in the operating company, the provisions in Part Thirty of the National Land Code shall, for the purpose of effecting the registration of such vesting, apply to the operating company as if it were a public authority. *Act 56/65.*

(8) On and after the vesting date, any agreement relating to any property, rights and liabilities transferred to and vested in the operating company under subsection (1) to which the Government of Malaysia was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights and liabilities thereunder could be assigned by the Government of Malaysia, shall have effect as if the company had been a party to the agreement.

4. (1) As a consequence of the vesting in the operating company of the property, rights and liabilities under Initial Government holding in the operating company.

section 3, the company shall issue such securities of the company as the Minister of Finance may, after consultation with the Minister, from time to time direct to the Corporation.

(2) Securities required to be issued in pursuance of this section shall be issued or allotted at such times and on such terms, as to allotment, as the Minister of Finance may, after consultation with the Minister, direct.

(3) Shares issued in pursuance of this section—

(a) shall be of such nominal value as the the Minister of Finance may direct; and

(b) shall be issued as fully paid and treated for the purposes of the Companies Act 1965 as if they had been paid up by virtue of the payment to the operating company of their nominal value.

Act 125.

(4) The Minister of Finance may, after consultation with the Minister, dispose of any securities issued or of any rights to securities initially allotted to the Corporation in pursuance of this section.

(5) Any dividends or other sums received by the Corporation in right of, on the disposal of or otherwise in connection with any securities or rights acquired by virtue of this section shall be paid into the Consolidated Fund.

Government
investment
in securities
of the
operating
company.

5. (1) The Minister of Finance may, after consultation with the Minister, at any time, acquire—

(a) securities of the operating company or of any subsidiary of the operating company; or

(b) rights to subscribe for any such securities.

(2) The Minister of Finance may, after consultation with the Minister, dispose of any securities or rights acquired under this section.

(3) Any expenses incurred by the Corporation in consequence of the provisions of this section shall be treated as investments and be authorised under subparagraph 8 (3) (a) (iv) of the Financial Procedure Act 1957.

Act 61.

(4) Any dividends or other sums received by the Corporation in right of, on the disposal of or otherwise in connection with any securities or rights acquired under this section shall be paid into the Consolidated Fund.

(5) Stamp duty shall not be chargeable—

(a) in respect of any increase in the authorised share capital of the operating company which—

(i) is effected at a time when the operating company was wholly owned by the Government; and

(ii) is certified by the Treasury as having been effected by the issue of shares subscribed for by the Corporation under paragraph (1)(a);

(b) on any instrument which is certified by the Treasury as having been made or effected in pursuance of section 4.

6. (1) The Minister of Finance may, from time to time, for so long as the Government of Malaysia holds not less than five per cent of the entire issued securities in the operating company, after consultation with the Minister, nominate such number of persons as may be appropriate to be directors on the board of the company.

Appointment
of Govern-
ment repre-
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on the board
of the
operating
company

(2) The operating company shall cause every person nominated by the Minister of Finance under subsection (1) to be appointed to the board of the company.

(3) Any person appointed to the board of the operating company under subsection (2) may, at any time, be removed by the Minister of Finance, after consultation with the Minister, by giving written notice to such person and the company.

(4) For the purpose of determining the number of persons to be appointed as directors of the operating company under subsection (1), the Minister of Finance shall have regard to the total number of securities held by the Government of Malaysia and the total number of directors appointed or proposed to be appointed by the company to its board, at the time of such nomination.

(5) Nothing in this section shall be construed so as to affect any power, right or privilege which may be conferred on the Government of Malaysia by the constituent documents of the operating company.

Financial
structure
of the
operating
company.

7. (1) If the Minister of Finance, after consultation with the Minister, so directs at any time before the operating company ceases to be wholly owned by the Government of Malaysia, such sum, not exceeding the accumulated realised profits of the company, as may be specified in the direction shall be carried by the company to a reserve, which in this section is referred to as "the statutory reserve".

(2) The statutory reserve may only be applied by the operating company in paying up unissued shares of the company to be allotted to members of the company as fully-paid bonus shares.

(3) For the purposes of any statutory accounts of the operating company the value of any asset or right or the amount of any liability of the Government of Malaysia taken to have been vested in the company by virtue of section 3 in any particular year shall be taken to be the value or, as the case may be, the amount assigned to that asset, right or liability by the Government of Malaysia before the vesting date.

(4) References in this section to the statutory accounts of the operating company are references to any accounts prepared by the operating company for the purposes of any provision of the Companies Act 1965.

PART III

PROVISIONS RELATING TO STAFF

Staff.

8. (1) The operating company shall accept into its employment on a date to be appointed by the Minister by notification in the *Gazette* every person who immediately before that date is a member of the staff of the Department of Civil Aviation, Malaysia and who was given an option by the Government of Malaysia and has opted to serve as an employee of such company.

(2) The Government and the operating company may from time to time after the appointed date enter into any arrangement or agreement for any other member of the staff of the Department of Civil Aviation, Malaysia, to be given the option to serve as an employee of the operating company.

(3) Every such person who opts under subsections (1) and (2) to serve as an employee of the operating company shall be employed by such company on terms and conditions of service not less favourable than the terms and conditions of service to which he was entitled immediately before the appointed date.

EXPLANATORY STATEMENT

This Bill seeks to provide for the vesting, from time to time, of the property, rights and liabilities of the Government of Malaysia relating to civil aviation in the operating company, to make financial arrangements for that company and to provide for matters relating to staff.

2. *Clause 1* provides for the short title and commencement date while *clause 2* relates to interpretation.

3. *Clause 3* provides that the Minister may, from time to time, by order published in the *Gazette*, appoint a vesting date, and on such date all property, rights or liabilities of the Government of Malaysia relating to civil aviation specified in such order shall be transferred to and vested in the operating company without any conveyance, assignment or transfer whatever.

4. *Clause 4* provides for securities of the operating company to be issued or allotted to the Minister of Finance incorporated by the Minister of Finance (Incorporation) Act 1957 on such terms and conditions as to allotment as the Minister of Finance, after consultation with the Minister, may direct and for any disposal of such securities by the Minister of Finance, after consultation with the Minister.

5. *Clause 5* empowers the Minister of Finance, after consultation with the Minister, to acquire securities of the operating company or its subsidiary or rights to subscribe to such securities and the disposal of them.

6. *Clause 6* empowers the Minister of Finance, for so long as the Government holds not less than five per cent of the entire issued

securities in the operating company, after consultation with the Minister, to appoint Government representatives on the board of the operating company.

7. *Clause 7* provides for the financial structure of the company.

8. *Clause 8* provides for matters relating to staff. Every person given an option by the Government of Malaysia and who opts to serve as an employee of the operating company shall be employed by such company on terms and conditions of service not less favourable than those to which he was entitled immediately before his transfer to the company.

FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U²) 1584.]