

1980-81-82

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 18 August 1982

*(Minister for Transport and Construction)*

## A BILL

FOR

### An Act relating to the Omega Navigation Facility

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

#### Short title

1. This Act may be cited as the *Omega Navigation Facility Act 1982*.

#### 5 Commencement

2. This Act shall come into operation on a day to be fixed by Proclamation.

#### Interpretation

3. (1) In this Act, unless the contrary intention appears—  
“goods” includes water, gas and electricity;  
10 “Omega navigation facility” means the navigation facility, known as the Omega navigation facility, established pursuant to the exchange of notes constituting an agreement between the Government of Australia and the Government of the United States of America the texts of which are set out in the Schedule, being the facility consisting of the transmitter and associated equipment situated on land owned by the Commonwealth near Darriman in Victoria and the monitoring equipment and associated equipment situated on land owned by the  
15 Commonwealth near Carrajung in Victoria;

“supply” includes—

- (a) in relation to goods—sell, lease and let on hire; and
- (b) in relation to services—provide;

“Territory” means an internal Territory.

(2) For the purposes of this Act, goods or services for use in connection with any land on which, or building in which, any equipment forming part of the Omega navigation facility is situated shall be deemed to be goods or services for use in connection with the Omega navigation facility.

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### **Object of Act**

4. (1) The object of this Act is to facilitate the discharge by the Government of the Commonwealth of its responsibilities and powers with respect to external affairs, trade and commerce, and places acquired by the Commonwealth for public purposes, in connection with the Omega navigation facility, and it is the intention of the Parliament that this Act shall be administered so as to further that object.

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(2) It is also the intention of the Parliament that, in the furtherance of the object of this Act but subject to the provisions of this Act, the co-operation and assistance of the States and their authorities be sought and utilized, in so far as it is appropriate and practicable to do so, in facilitating the continued operation and maintenance of the Omega navigation facility.

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### **Application**

5. This Act binds the Crown in right of the Commonwealth, of each of the States and of the Northern Territory.

### **Exclusion of certain State and Territory laws**

6. (1) This Act operates to the exclusion of any law of a State or Territory, or any instrument (including rules, regulations or by-laws) made, granted or issued under such a law, that would, but for this section, prevent or obstruct the operation or maintenance of the Omega navigation facility or prevent or obstruct any person from doing any act or thing that the person is required or permitted by this Act to do.

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(2) Without limiting by implication the generality of sub-section (1), the imposition of a condition, restriction or requirement on the doing of any act or thing shall be taken, for the purposes of that sub-section, to constitute the obstructing of the doing of that act or thing.

(3) Except as provided by sub-sections (1) and (2), this Act shall not be taken to exclude or limit the operation of any law of a State or Territory, or any instrument (including rules, regulations or by-laws) made, granted or issued under such a law, that is capable of operating concurrently with the operation of this Act.

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**Power of Minister to direct persons to supply goods or services**

5 7. (1) Where the Minister is satisfied that the supply of particular goods or services (in this section referred to as the “relevant goods or services”) is required for use in connection with the Omega navigation facility, he may direct a person who ordinarily supplies such goods or services, or a person who is an officer, employee or agent of a person who ordinarily supplies such goods or services, to supply the relevant goods or services in accordance with the direction.

10 (2) The Minister may at any time revoke a direction given under this section.

**Offences**

8. (1) A person shall not prevent, hinder or obstruct—

- 15 (a) the supply by a person who is a relevant person for the purposes of this paragraph of goods or services for use in connection with the Omega navigation facility; or
- (b) the supply by a person, pursuant to a direction given under section 7, of goods or services for use in connection with the Omega navigation facility.

20 (2) The following persons are relevant persons for the purposes of paragraph (1) (a):

- (a) a person who, under a contract with the Commonwealth or with an authority of the Commonwealth, has agreed to supply, or to arrange for the supply of, goods or services for use in connection with the operation of the Omega navigation facility;
- 25 (b) a person who, under a contract with a person referred to in paragraph (a), has agreed to supply goods or services for use in connection with the operation of the Omega navigation facility; or
- (c) an officer, employee or agent of a person referred to in paragraph (a) or (b).

30 (3) For the purposes of paragraph (1) (b), a person shall be taken to be supplying goods or services pursuant to a direction if the direction was given—

- (a) to the person;
- (b) to a person with whom the first-mentioned person has entered into a contract to supply the goods or services; or
- 35 (c) to a person of whom the first-mentioned person is an officer, employee or agent.

40 (4) Where the Minister has, by writing signed by him, authorized a person to obtain access to the Omega navigation facility, a person shall not prevent, hinder or obstruct the person so authorized from obtaining access to the Omega navigation facility.

(5) A person to whom a direction has been given under section 7 shall not, without reasonable excuse, fail to comply with the direction.

(6) It is not a reasonable excuse for a person to fail to comply with a direction under section 7 that the person believed that he was prohibited from complying with the direction by or under a law of a State or Territory, by the terms of his employment or by an order given to him by a person having authority over him in his employment.

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Penalty: \$1,000 or imprisonment for 6 months, or both.

**Right of compensation or payment for services or goods**

9. (1) Where—

(a) a person suffers loss or damage as a result of compliance by the person or by a servant or agent of the person with a direction under section 7; or

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(b) the operation of this Act, or the doing of any act pursuant to a direction under section 7, results in the acquisition of property from a person, being an acquisition of property within the meaning of paragraph 51 (xxxi) of the Constitution,

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the Commonwealth is liable to pay compensation to the person who suffered the loss or damage or whose property was acquired, as the case may be.

(2) Where a person supplies goods or services pursuant to a direction under section 7, the Commonwealth is liable to pay that person for the supply of the goods or services.

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(3) The amount of the compensation to be paid to a person by the Commonwealth under sub-section (1), or the amount of a payment to be made to a person by the Commonwealth under sub-section (2), shall be such amount as is agreed between them or, in default of agreement, as is determined by a court of competent jurisdiction to be just.

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**Certificate as to authorized persons**

10. (1) In any proceedings, a certificate in writing given by the Minister stating that a person specified in the certificate—

(a) was at a specified time or during a specified period a relevant person for the purposes of paragraph 8 (1) (a) or a person authorized to obtain access to the Omega navigation facility; or

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(b) was at a specified time, or during a specified period, supplying goods or services pursuant to a direction given under section 7,

shall be received in evidence as *prima facie* evidence of the matters stated in the certificate.

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(2) A document purporting to be a certificate referred to in sub-section (1) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

**Saving of Commonwealth laws**

11. (1) Except as provided by sub-section (2), this Act does not affect the operation of a provision of any other law of the Commonwealth.

5 (2) In the application of the *Commonwealth Places (Application of Laws) Act* 1970 in relation to any land on which any equipment forming part of the Omega navigation facility is situated, that Act has effect as if sub-section 5 (3) of, and the Schedule to, that Act were omitted.

**Delegation**

10 12. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to an officer of the Australian Public Service all or any of his powers under this Act, other than this power of delegation.

(2) A delegation under sub-section (1) may be to a specified person or to the person from time to time holding a specified office.

15 (3) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(4) A delegation under this section does not prevent the exercise of a power by the Minister.

**Regulations**

20 13. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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**SCHEDULE**

*[Note from the United States Ambassador, Canberra to the Acting Minister for Foreign Affairs of Australia]*

**NOTE No. 1**

Canberra, A.C.T.  
June 8, 1977

My Dear Minister:

I have the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of Australia concerning the establishment in south-eastern Australia of an OMEGA Navigation Facility capable of being used by any suitably-equipped ship or aircraft.

In the light of these discussions I have the honor to propose that an OMEGA Navigation Facility be established, operated and maintained by the Australian Government as an Australian facility for the purpose of improving the navigational efficiency of mariners and aviators of all nations, and that, to this end, an agreement between our two governments be concluded in the following terms:

1. In this Agreement

“co-operating agencies” means the Australian Department of Transport and the OMEGA Project Office of the United States Government.

“facility” means the OMEGA facility to be established in Australia under the operational control of the Australian Government pursuant to this Agreement.

2. Subject to this Agreement the Australian Government shall design, construct, equip and commission in accordance with design and other technical standards agreed by the co-operating agencies, an OMEGA Navigation Facility at a site in south-eastern Australia to be agreed upon by the two governments.

3. The two governments shall exercise all reasonable endeavours to complete the facility as soon as practicable after the date of entry into force of this Agreement.

4. The United States Government shall make available without cost to the Australian Government, the equipment, materials and services listed in the Annex to this Agreement and shall bear the costs of designing, constructing, equipping, commissioning and otherwise establishing the facility except that the costs of providing necessary staff quarters and land for the facility shall be borne by the Australian Government. The costs to be borne by the United States Government shall be paid to the Australian Government by periodic payments in such manner and at such times as may be agreed by the co-operating agencies.

**SCHEDULE—continued**

5. The Australian Government shall be solely responsible for operating, managing, maintaining, and staffing the facility and shall bear the cost thereof.

6. On the completion of the facility, the Australian Government shall make arrangements for beginning the regular transmission of signals by the facility as a part of the world-wide OMEGA system. The Australian and United States Governments shall use their best endeavours to ensure the continuous operation of their respective facilities in phase with the world-wide OMEGA system and agree to consult urgently if an emergency situation should require operations to be ceased temporarily at a facility under their control.

7. OMEGA signals from the facility shall be used only for navigation, for search and rescue operations, for time dissemination and for other purposes as agreed by both governments, but not for communication other than that necessary to ensure the integrated operation of the facility as part of the world-wide OMEGA system.

8. To the extent that the carrying out by either Government of any requirements in this Agreement may depend on funds to be appropriated to that government or to the other government, those requirements will be subject to the availability of those funds.

9. The equipment, parts, materials and supplies which the co-operating agencies agree are equipment, parts, materials and supplies imported into Australia by the United States Government for the purposes of this Agreement shall be exempt from Australian customs duties and taxes.

10. Whenever the co-operating agencies agree that the whole or any part of the equipment and materials listed in the Annex to this Agreement are no longer required for the purposes of this Agreement, such whole or part and such other equipment and materials as the co-operating agencies agree should also be returned to the United States Government shall be returned to the United States Government for conveyance from Australia or, upon conditions agreed by the two governments, for disposal in Australia.

11. At all stages in the establishment, operation and maintenance of the facility the maximum practicable use shall be made of Australian components and resources. In particular, the antenna and its tower shall be the subject of special consultation between the co-operating agencies with the object of maximizing the Australian content.

12. Whenever requested by, and without charge to, the Australian Government, the United States Government shall provide necessary training for the purposes of this Agreement in the operation of the electronics equipment made available by the United States Government, for such persons as may be nominated by the Australian Government, which shall pay the salaries, transportation, accommodation and living expenses of such persons.

13. The Australian Government, as operator of the facility, will co-operate with other countries operating OMEGA facilities and will use its best endeavours, as will the United States Government, to establish an appropriate international regime for the co-ordinated operation of the OMEGA system.

**SCHEDULE—continued**

14. The co-operating agencies of the two governments may make additional arrangements for the effective implementation of this Agreement.

I have the honour to propose that, if the foregoing is acceptable to the Australian Government, my Note and your reply to that effect shall together constitute an Agreement between our two governments which shall enter into force on the date of your reply and which shall remain in force until 180 days after either government gives to the other notice of its intention to terminate the Agreement.

(Signed) PHILIP ALSTON, JR

The Right Honourable Ian McCahon Sinclair, M.P.  
Acting Minister for Foreign Affairs  
Canberra, Australia

**ANNEX TO THE AGREEMENT ON THE ESTABLISHMENT OF  
AN OMEGA NAVIGATION FACILITY IN  
AUSTRALIA—EQUIPMENT, MATERIALS AND SERVICES TO BE  
MADE AVAILABLE BY THE UNITED STATES GOVERNMENT  
IN ACCORDANCE WITH CLAUSE 4 OF THE AGREEMENT**

(A) All electronic equipment necessary to transmit OMEGA Navigation Signals in phase with the world-wide OMEGA system;

(B) All tuning equipment, including helix, variometers and associated components, together with the helix antenna bushing;

(C) The OMEGA monitoring equipment for the facility's monitor station;

(D) Normal initial spares for the equipment made available in accordance with this Annex;

(E) Lists of standard test equipment needed, together with all special test sets needed for the operation and maintenance of the facility;

(F) Five (5) sets of all applicable technical documents including detailed and complete circuit diagrams of all equipment to be installed at the transmitting and monitoring stations at the time of delivery of the equipment;

(G) Construction drawings and specifications of the Liberia OMEGA transmitter and monitoring station facilities;

(H) Delivery of the foregoing equipment and materials to an Australian port of entry to be agreed upon by the co-operating agencies; and

(I) All other technical assistance as may be agreed between the co-operating agencies to be necessary for the establishment and construction of the facility.



**SCHEDULE—continued**

*[Note from the Minister for Transport of Australia to the United States  
Ambassador, Canberra.]*

**NOTE No. 2**

**Minister for Transport  
20 September 1977**

Sir,

I have the honour to acknowledge receipt of your Note of 8 June 1977 concerning the proposed Agreement to establish an OMEGA Navigation Facility in Australia. That Note reads as follows:

*(As in No. 1)*

I have the honour to inform you that the foregoing proposal is acceptable to the Australian Government, which agrees that your Note and this reply shall together constitute an agreement between our two Governments, which shall enter into force on today's date.

Accept, Sir, the assurances of my highest consideration.

**(Signed) PETER NIXON**





