

Bill No. 61 of 2006

THE AIRCRAFT (AMENDMENT) BILL, 2006

A

BILL

further to amend the Aircraft Act, 1934.

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

1. (1) This Act may be called the Aircraft (Amendment) Act, 2006.

Short title
and
commencement.

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

22 of 1934. 5 2. In section 1 of the Aircraft Act, 1934 (hereinafter referred to as the principal Act), in sub-section (2),—

Amendment
of section 1.

(i) in clause (a), the word “and” shall be omitted;

(ii) after clause (b), the following clauses shall be inserted, namely:—

10 “(c) to, and to the persons on, aircraft registered outside India but for the time being in or over India; and

(d) to an aircraft operated by a person who is not a citizen of India but has his principal place of business or permanent residence in India.”.

Amendment of section 4.

3. In section 4 of the principal Act, for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

Insertion of new section 4A.

4. After section 4 of the principal Act, the following section shall be inserted, namely:—

Safety oversight functions.

"4A. The Director General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government shall perform the safety oversight functions in respect of matters specified in this Act or the rules made thereunder."

Amendment of section 5.

5. In section 5 of the principal Act,—

(a) in sub-section (1), for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted;

(b) in sub-section (2),—

(i) for clause (b), the following clauses shall be substituted, namely:—

"(b) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the prohibition or regulation of the use of unlicensed aerodromes;

(ba) the fees which may be charged at those aerodromes to which the Airports Authority of India Act, 1994 does not apply or is not made applicable;"

(ii) after clause (g), the following clauses shall be inserted, namely:—

"(ga) the licensing of persons engaged in air traffic control;

(gb) the certification, inspection and regulation of communication, navigation and surveillance or air traffic management facilities;

(gc) the measures to safeguard civil aviation against acts of unlawful interference;"

Amendment of section 5A.

6. In section 5A of the principal Act, in sub-section (1), for the words, brackets, letters and figures "clauses (b), (c), (e), (f), (g), (h) and (m) of sub-section (2) of section 5, to any person or persons engaged in aircraft operations or using any aerodrome", the words, brackets, letters and figures "clauses (aa), (b), (c), (e), (f), (g), (ga), (gb), (gc), (h), (i), (m) and (qq) of sub-section (2) of section 5, to any person or persons using any aerodrome or engaged in the aircraft operations, air traffic control, maintenance and operation of aerodrome, communication, navigation, surveillance and air traffic management facilities and safeguarding civil aviation against acts of unlawful interference" shall be substituted.

Amendment of section 7.

7. In section 7 of the principal Act,—

(a) in sub-section (1), for the portion beginning with the words "The Central Government", and ending with the words "of any accident", the words and figures "Subject to the provisions of section 14, the Central Government may, by notification in the Official Gazette, make rules providing for the investigation of any accident or incident" shall be substituted;

(b) in sub-section (2), for the word "accident" wherever it occurs, the words "accident or incident" shall be substituted.

Amendment of section 8.

8. In section 8 of the principal Act, in sub-section (2), for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

Amendment of section 8A.

9. In section 8A of the principal Act, for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

10. In section 8C of the principal Act, for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

Amendment
of section 8C.

11. In section 10 of the principal Act,—

Amendment
of section 10.

5 (i) in sub-section (1), for the word "fine", the words "fine which may extend to ten lakh rupees" shall be substituted;

(ii) in sub-section (1A), for the words "one year, or fine which may extend to two thousand rupees", the words "three years, or with fine which may extend to ten lakh rupees" shall be substituted;

(iii) in sub-section (2),—

10 (a) for the word and figure "section 7", the words and figures "section 4, section 7" shall be substituted;

(b) for the words "three months, or with fine which may extend to one thousand rupees", the words "two years, or with fine which may extend to ten lakh rupees" shall be substituted.

15 12. In section 11 of the principal Act, for the words "six months, or with fine which may extend to one thousand rupees", the words "two years, or with fine which may extend to ten lakh rupees" shall be substituted.

Amendment of
section 11.

13. In section 11A of the principal Act, for the words "six months", the words "two years" shall be substituted.

Amendment of
section 11A.

20 14. In section 11B of the principal Act,—

Amendment of
section 11B.

(a) in sub-section (1), for the words "six months, or with fine which may extend to one thousand rupees", the words "two years, or with fine which may extend to ten lakh rupees" shall be substituted;

(b) in sub-section (2), the following proviso shall be inserted, namely:—

25 "Provided that the power to make rules under this sub-section shall be subject to the provisions of section 14."

STATEMENT OF OBJECTS AND REASONS

At present the Central Government through various provisions of the Aircraft Act, 1934 and the rules made thereunder exercises control in respect of manufacture, possession, use, operation, sale, import and export of civil aircrafts and licensing of aerodromes:

2. In the last two decades, significant developments have taken place in the civil aviation sector in India. The domestic air transport services were opened to the private sector in 1994 and the management and operation of the airports, the navigation, communication facilities and the air traffic control at airports were transferred to the Airports Authority of India with effect from the 1st April, 1995. Now, with vast developments in technology, communication, navigation, surveillance and air traffic management are switching over from ground based to satellite based technology. As a result of these developments, a need has arisen to lay down appropriate safeguards to ensure protection of civil aviation against acts of unlawful interference.

3. Keeping in view the above aspects as well as standards laid down by the International Civil Aviation Organisation (ICAO) for safety and security of civil aviation and also to give effect to various provisions of the Convention on International Civil Aviation popularly known as Chicago Convention, certain amendments are proposed to be made to the Aircraft Act, 1934.

4. The Aircraft (Amendment) Bill, 2006, *inter alia*, seeks—

(a) to regulate foreign registered aircraft which is for the time being operating in or over India;

(b) to empower the Central Government for—

(i) licensing of personnel engaged in air traffic control;

(ii) certification, inspection and regulation of communication, navigation and surveillance and air traffic management;

(iii) safeguarding civil aviation against acts of unlawful interference and to ensure civil aviation security; and

(iv) investigation of incident along with accident.

(c) to empower the Director General of Civil Aviation for performing safety oversight functions.

(d) to impose penalty for contravention of the provisions of the Chicago Convention;

(e) to enhance quantum of existing penalties for violation of rules relating to carriage in aircraft of arms or explosives or providing false information or abetment of offences or non-compliance of directions with a view to achieve desired deterrent effect which would go a long way in raising the compliance level;

(f) to enlarge the scope of the powers of Director General of Civil Aviation.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 28th July, 2006.

PRAFUL PATEL

ANNEXURE

EXTRACTS FROM THE AIRCRAFT ACT, 1934

(22 OF 1934)

* * * * *
 1. (1) * * * * * Short title and extent.

(2) It extends to the whole of India and applies also—
 (a) to citizens of India wherever they may be; and

4. The Central Government may, by notification in the Official Gazette, make such rule as appear to it to be necessary for carrying out the Convention relating to International Civil Aviation signed at Chicago on the 7th day of December, 1944 (including any annex thereto relating to international standards and recommended practices) as amended from time to time.

Power of Central Government to make rules to implement the Conventions of 1944.

5. (1) The Central Government may, by notification in the Official Gazette, make rules regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft and for securing the safety of aircraft operations.

Power of Central Government to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(b) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained, the prohibition or regulation of the use of unlicensed aerodromes and the fees which may be charged at those aerodromes to which the Airport Authority of India Act, 1994 does not apply or is not made applicable:

55 of 1994.

5A. (1) The Director General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order, issue directions, consistent with the provisions of this Act and the rules made thereunder, with respect to any of the matters specified in clauses (b), (c), (e), (f), (g), (h) and (m) of sub-section (2) of section 5, to any person or persons engaged in aircraft operations or using any aerodrome, in any case where the Director General of Civil Aviation or such other officer is satisfied that in the interests of the security of India or for securing the safety of aircraft operations it is necessary so to do.

Power to issue directions.

7. (1) The Central Government may, by notification in the Official Gazette, make rules providing for the investigation of any accident arising out of or in the course of the navigation—

(a) in or over India of any aircraft, or
 (b) anywhere of aircraft registered in India.

Power of Central Government to make rules for investigation of accident.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) required notice to be given of any accident in such manner and by such person as may be prescribed;

(b) apply for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;

(c) prohibit pending investigation access to or interference with aircraft to which an accident has occurred, and authorise any person so far as may be necessary for the purposes of an investigation to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft; and

(d) authorise or require the cancellation, suspension, endorsement or surrender of any licence or certificate granted or recognised under this Act when it appears on an investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

Power to detain aircraft.

8. (1) * * * *

(2) The Central Government may, by notification in the Official Gazette, make rules regulating all matters incidental or subsidiary to the exercise of this power.

Power of Central Government to make rules for protecting the public health.

8A. The Central Government may, by notification in the Official Gazette, make rules for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of sub-section (1) of section 6 of the Indian Ports Act, 1908, may be made with respect to vessels and ports.

15 of 1908.

Power of Central Government to make rules for securing safe custody and re-delivery of unclaimed property.

8C. The Central Government may, by notification in the Official Gazette, make rules which may provide for securing the safe custody and re-delivery of any property which, while not in proper custody, is found on any aerodrome or in any aircraft on any aerodrome and any such rules may, in particular, provide for—

(a) the payment of charges in respect of any such property before it is re-delivered to the person entitled thereto; and

(b) the disposal of any such property in cases where the same is not re-delivered to the person entitled thereto before the expiration of such period as may be specified therein.

Penalty for act in contravention of rule made under this Act.

10. (1) If any person contravenes any provision of any rule made under clause (f) of sub-section (2) of section 5 prohibiting or regulating the carriage in aircraft of arms, explosives or other dangerous goods, or when required under the rules made under that clause to give information in relation to any such goods gives information which is false and which he either knows or believes to be false or does not believe to be true he, and if he is not the owner also (unless the owner proves that the offence was committed without his knowledge, consent or connivance) shall be punishable with imprisonment which may extend to two years and shall also be liable to fine.

(1A) If any person contravenes any provision of any rule made under clause (gg) of sub-section (2) of section 5 prohibiting the slaughter and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matters within a radius of ten kilometers from the aerodrome reference point, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) In making any other rule under section 5 or in making any rule under section 7, section 8, section 8A or section 8B, the Central Government may direct that a breach of it

shall be punishable with imprisonment for a period which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

11. Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for flying so as to cause danger.

11A. If any person wilfully fails to comply with any direction issued under section 5A, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten lakh rupees, or with both.

Penalty for failure to comply with directions issued under section 5A.

11B. (1) If any person wilfully fails to comply with any direction contained in any notification issued under section 9A, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Penalty for failure to comply with directions issued under section 9A.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or structure or cut any tree or fails to reduce the height of any building, structure or tree in pursuance of any direction contained in any notification issued under sub-section (1) of section 9A within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the Central Government in this behalf to demolish such building or structure or cut such tree or reduce the height of such building, structure or tree.

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