

Bharatiya Vayuyan Vidheyak, 2024

On December 5, 2024, the Parliament passed the Bharatiya Vayuyan Vidheyak, 2024 (“**New Aircraft Act**”)¹ replacing the Aircraft Act, 1934 (“**Aircraft Act**”), with an aim to modernise India’s Aviation regulatory framework to align with international standards. The New Aircraft Act also aims to address emerging challenges in the aviation ecosystem including technological advancements, safety and consumer protection etc.

The New Aircraft Act retains the regulatory structure *qua* (a) Directorate General of Civil Aviation (“**DGCA**”) – for performing regulatory functions and overseeing safety; (b) Bureau of Civil Aviation Security (“**BCAS**”) - for overseeing security; and (c) Aircraft Accidents Investigation Bureau (“**AAIB**”), for investigation of aircraft accidents. These authorities will continue to operate under the Central government’s supervision.

The New Aircraft Act introduces several key changes that are expected to significantly impact the Indian Aviation sector.

Key highlights of the New Aircraft Act

1. **Expands the scope of regulation under the New Aircraft Act to include aircraft ‘design’, ‘manufacture’, and ‘maintenance’:** The New Aircraft Act introduces new definitions such as ‘design’, ‘maintenance’ and ‘manufacture’. The terms ‘design’ and ‘maintenance’ are being used for the first time.

*This creates regulatory certainty for Maintenance, Repair, and Overhaul (“**MRO**”) sector thus, leading to more investments and creating a foundation for an atmanirbhar Bharat.*

2. **Streamlines license process for aviation personnels:** Radio Telephone Operator Restricted certificate (“**RTORC**”) and licence testing process which was earlier conducted by the Department of Telecommunications , will now be conducted by DGCA. This RTORC/license process is required to be undertaken by aviation personnels including aircraft maintenance engineers, flight despatchers and pilots to operate all radio frequencies and equipment on an aircraft.

This will ensure a single-window clearance process as aviation personnel can now secure all their certificates (including this one) from one authority.

3. **Aligns with international conventions:** The Central Government is empowered to makes rules on matters relating to implementation of (a) Convention on International Civil Aviation, 1944; (b) RTORC; and (c) licences under the International Telecommunication Convention.

¹ Received President of India’s assent on December 11, 2024.

This ensures that best global aviation practises are followed in India and at the same time also enhances India's reputation in the international aviation community.

4. **Introduces second tier of appellate mechanism:** Presently, the decisions of Adjudicating Officer *re.* disputes/penalties under the Aircraft Act may be appealed before an Appellate Officer (appointed by the Central Government). The New Aircraft Act introduces an additional level of appeal against the decisions of the First Appellate Officer – which will now lie before the Second Appellate Officer.

This ensures transparency and compliance of principles of natural justice.

5. **Appeal against orders of DGCA and BCAS:** Under the New Aircraft Act, appeals against an order of DGCA or BCAS will lie before the Central Government. No further appeals against the Central Government orders is permitted.

This again ensures transparency and compliance of principles of natural justice.

6. **New penalties for dangerous flying and offences:** Violation of rules prohibiting slaughter and deposit of rubbish near airports will be punishable with imprisonment up to 3 (three) years, a fine up to INR 1,00,00,000 (Indian Rupees one crore). The Central Government Is given discretion to specify civil or criminal penalties for violation of rules concerning regulation of activities related to aircrafts such as design, manufacturing, use, and trade, implementation of international convention etc.

This is line with the objective of ensuring safety & security for passengers.

7. **Economic and fare regulation in line with interests of consumers:** The New Aircraft Act empowers the Central Government to frame rules for economic regulation, including fare regulation for air transport services. Presently, the Central Government monitors the airfares through DGCA and airlines have liability to inform it before they decide a fare for a particular route in terms of Rule 135 of Aircraft Rules, 1937. In this regard, on December 5, 2024, Union Civil Aviation Minister Ram Mohan Naidu has announced that the Central Government is removing a provision in DGCA's Air Transport Circular 02 of 2010 (dated November 19, 2010) that allowed airlines to change prices within 24 (twenty-four) hours. The airlines will now be required to notify DGCA of ticket prices a month in advance, without being allowed the possibility of any changes/revisions.

This mechanism helps to prevent unauthorised operation and protects consumers from exploitation while maintaining the financial viability of airlines.

Conclusion

Overall, the New Aircraft Act offers progressive and an ambitious step forward for the India's aviation sector. It not only strengthens the safety standards but also aligns with national initiatives like 'Make in India' and international best practices. However, there are also concerns with the New Aircraft Act regarding centralised power (lack of independence of regulatory authorities), environmental sustainability (which has not been directly addressed in the New Aircraft Act), lack of framework for aircraft leasing, absence of MRO specific provisions, loopholes in current consumer protection model (i.e. airfare guidelines not detailed, effective grievance redressal for consumers during airline's financial distress) etc. It is also important to address such concerns in order to fully unlock unprecedented growth and innovation in Indian Aviation.

Aviation Practice

JSA is known for its specialist domain knowledge in several infrastructure sectors such as aviation, energy, telecommunication, etc. JSA's expertise and cross-disciplinary approach along with substantial industry knowledge combine to put the Firm in a unique position to navigate the complexities that clients are facing in the aviation sector. JSA is one of the few firms with established knowledge and experience in the aviation sector, with specific expertise with respect to regulated areas being aeronautical tariff, non-aeronautical services, Operations Management and Development Agreement, State Support Agreement, Civil Aviation Policy et al. In fact, the Firm is recognised for its domain-focused specialised regulatory practice and strength in dealing with complex issues involving public policy, market economics, technology, finance and project management, balancing interests of both, the airport operator and airlines. JSA is regularly consulted by several government departments, regulators, airport operators, airlines, stakeholder associations and organisations, development financial institutions, industry bodies, suppliers, lenders and investors.

JSA has a vast experience in the aviation sector across all the three practice areas namely Corporate, Finance and Disputes Resolution. JSA's practice has contributed to several landmark and precedent-setting decisions passed by Consumer Fora, the Airports Economic Regulatory Authority Appellate Tribunal, Bombay High Court, Delhi High Courts and the Supreme Court of India.

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