

Bill No. 28 of 2020

THE AIRCRAFT (AMENDMENT) BILL, 2020

A

BILL

further to amend the Aircraft Act, 1934.

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

1. This Act may be called the Aircraft (Amendment) Act, 2020.

Short title.

XXII of 1934.

2. In the Aircraft Act, 1934 (hereinafter referred to as the principal Act), in section 2,—

Amendment
of section 2.

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(a) after clause (I), the following clause shall be inserted, namely:—

'(IA) "Aircraft Accidents Investigation Bureau" means the Aircraft Accidents Investigation Bureau constituted under section 4C;'

(b) after clause (2A), the following clauses shall be inserted, namely:—

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'(2B) "Bureau of Civil Aviation Security" means the Bureau of Civil Aviation Security constituted under section 4B;

(2C) "Directorate General of Civil Aviation" means the Directorate General of Civil Aviation constituted under section 4A;'

Substitution of
new sections
4A, 4B, 4C
and 4D for
section 4A.

3. For section 4A of the principal Act, the following sections shall be substituted, namely:—

Directorate
General of
Civil Aviation.

"4A. (1) The Central Government may constitute a body to be known as the Directorate General of Civil Aviation, which shall be headed by an officer designated as the Director General of Civil Aviation to be appointed in this behalf by the Central Government by notification in the Official Gazette. 5

(2) The Directorate General of Civil Aviation shall be responsible for carrying out the safety oversight and regulatory functions in respect of matters specified in this Act or the rules made thereunder.

(3) The administration of the Directorate General of Civil Aviation shall vest in the Director General of Civil Aviation. 10

(4) The Central Government may, by an order published in the Official Gazette, direct that any power exercisable by the Director General of Civil Aviation may also be exercisable by any other officer or authority specially empowered in this behalf by the Central Government. 15

Bureau of
Civil Aviation
Security.

4B. (1) The Central Government may constitute a body to be known as the Bureau of Civil Aviation Security, which shall be headed by an officer designated as the Director General of Bureau of Civil Aviation Security to be appointed in this behalf by the Central Government by notification in the Official Gazette.

(2) The Bureau of Civil Aviation Security shall be responsible for carrying out the regulatory and oversight functions in respect of matters relating to civil aviation security specified in this Act or the rules made thereunder. 20

(3) The administration of the Bureau of Civil Aviation Security shall vest in the Director General of Bureau of Civil Aviation Security.

(4) The Central Government may, by an order published in the Official Gazette, direct that any power exercisable by the Director General of Bureau of Civil Aviation Security may also be exercisable by any other officer or authority specially empowered in this behalf by the Central Government. 25

Aircraft
Accidents
Investigation
Bureau.

4C. (1) The Central Government may constitute a body to be known as the Aircraft Accidents Investigation Bureau, which shall be headed by an officer designated as the Director General of Aircraft Accidents Investigation Bureau to be appointed in this behalf by the Central Government by notification in the Official Gazette. 30

(2) The Aircraft Accidents Investigation Bureau shall be responsible for carrying out the functions in respect of matters relating to investigation of aircraft accidents or incidents specified in this Act or the rules made thereunder. 35

(3) The administration of the Aircraft Accidents Investigation Bureau shall vest in the Director General of Aircraft Accidents Investigation Bureau.

(4) The Central Government may, by an order published in the Official Gazette, direct that any power exercisable by the Director General of Aircraft Accidents Investigation Bureau may also be exercisable by any other officer or authority specially empowered in this behalf by the Central Government. 40

Superintendence
of Central
Government.

4D. The superintendence of the Directorate General of Civil Aviation, the Bureau of Civil Aviation Security and the Aircraft Accidents Investigation Bureau shall vest in the Central Government, which shall have the power to issue directions to each of these organisations, on any matters falling under sub-section (2) of sections 4A, 4B and 4C, respectively, if it considers necessary and expedient so to do in the public interest." 45

4. In section 5 of the principal Act, in sub-section (2),—

Amendment
of section 5.

(i) after clause (gc), the following clause shall be inserted, namely:—

5 "(gd) the regulation of air navigation services, that is, aeronautical information services, aeronautical charting and cartography services, aeronautical meteorological services, search and rescue services, procedure for air navigation services and aircraft operations other than those referred to in clause (gb) and any other matter relating to air navigation services;"

(ii) clause (qq) shall be relettered as clause (qa) thereof and in clause (qa) as so relettered, the word "and" occurring at the end shall be omitted;

10 (iii) after clause (qa), the following clauses shall be inserted, namely:—

"(qb) safety oversight and regulatory functions;

(qc) regulatory and oversight functions in respect of matters relating to civil aviation security; and".

5. In section 5A of the principal Act,—

Amendment
of section 5A.

15 (i) in sub-section (I), for the brackets, letters and word "(gc), (h), (i), (m) and (qq)", the brackets, letters and word "(gc), (gd), (h), (i), (m), (qa) and (qb)" shall be substituted;

(ii) after sub-section (I), the following sub-sections shall be inserted, namely:—

20 "(IA) The Director General of Bureau of Civil Aviation Security 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 (e), (f), (gc) and (qc) 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, or safeguarding civil aviation against acts of unlawful interference, in any case where the Director General of Bureau of Civil Aviation Security or such other officer is satisfied that in the interests of the security of India or to ensure security of civil aviation operations, it is necessary so to do.

30 "(IB) On receipt of a representation from any person or otherwise, if it considers necessary and expedient to do so in the public interest, the Central Government may review any order passed under sub-section (I) or sub-section (IA) and issue directions to the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security, as the case may be, to rescind or modify such order.";

35 (iii) in sub-section (2), after the word, brackets and figure "sub-section (I)", the words, brackets, figures and letters "or sub-section (IA) or sub-section (IB)" shall be inserted.

6. In section 10 of the principal Act, in sub-section (IA), —

Amendment
of section 10.

40 (i) for the word, brackets and letters "clause (qq)", the word, brackets and letters "clause (qa)" shall be substituted;

(ii) for the words "ten lakh rupees" wherever they occur, the words "one crore rupees" shall be substituted.

45 7. After section 10 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new
sections 10A
and 10B.

"10A. (I) Notwithstanding anything contained in sub-section (2) of section 10, the Central Government may, in making any rule under section 4, 5, 7, 8, 8A or section 8B,

Adjudication
of penalties.

provide for imposition of penalty not exceeding rupees one crore for the contravention of any rule for which no other punishment has been provided elsewhere in the Act, or in the rules made thereunder, for such contravention.

(2) The Central Government may, by an order published in the Official Gazette, appoint such number of officers not below the rank of Deputy Secretary to the Government of India or equivalent, as it considers necessary, to be designated officers for adjudging penalty under sub-section (1), in such manner as the Central Government may, by notification in the Official Gazette, make rules. 5

(3) The Central Government may, while appointing designated officers under sub-section (2), also specify their jurisdiction in that order. 10

(4) Where the designated officer is satisfied that any contravention of the provisions of the rules has been committed by any person, he may, by an order in writing, impose penalty on such person stating the nature of contravention, the provision of rules which has been contravened and the reasons for imposing such penalty: 15

Provided that the designated officer shall, before imposing any penalty, give a reasonable opportunity of being heard to such person.

(5) Any person aggrieved by an order made under sub-section (4) may prefer an appeal to an appellate officer having jurisdiction in the matter who is next higher in rank to the designated officer who has passed such order. 20

(6) Every appeal under sub-section (5) shall be filed within thirty days from the date on which the copy of the order made by the designated officer is received by the aggrieved person and shall be in such form and manner, and be accompanied by such fees, as the Central Government may, by notification in the Official Gazette, make rules. 25

(7) The appellate officer may, after giving the parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, modifying or setting aside the order appealed against.

Cancellation of licence or certificate or approval. 10B. Notwithstanding anything contained in this Act, if any person contravenes any of the provisions of this Act or the rules made thereunder, the licence, certificate or approval issued to such person under this Act may be suspended or cancelled in such manner as the Central Government may, by notification in the Official Gazette, make rules." 30

Amendment of section 11. 8. In section 11 of the principal Act, for the words "ten lakh rupees", the words "one crore rupees" shall be substituted. 35

Amendment of section 11A. 9. In section 11A of the principal Act, for the words "ten lakh rupees", the words "one crore rupees" shall be substituted.

Amendment of section 11B. 10. In section 11B of the principal Act, in sub-section (1), for the words "ten lakh rupees", the words "one crore rupees" shall be substituted.

Insertion of new sections 12A and 12B. 11. After section 12 of the principal Act, the following sections shall be inserted, namely:— 40

Composition of offences. "12A.(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under sections 10,11,11A,11B and section 12 or under any rules made thereunder, may be compounded, either before or after the institution of any prosecution, by the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be, in such manner as the Central Government may, by notification in the Official Gazette, make rules. 2 of 1974. 45

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date of commission of a similar offence which was earlier compounded or for which such person was earlier convicted.

5 (3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an offence shall be made in such manner as the Central Government may, by notification in the Official Gazette, make
10 rules.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence by an officer referred to in sub-section (1) against the offender in relation to whom the offence is so compounded.

15 (6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought to the notice of the court in which the prosecution is pending, in writing, by the officer referred to in sub-section (1), and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

20 (7) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(8) No offence specified in sub-section (1) shall be compounded except as provided in this section.

25 12B. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by or with the previous sanction in writing by the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be. Cognizance of offences.

30 (2) The complaint referred to in sub-section (1) shall be made within a period of one year from the date on which the offence came to the knowledge of the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be.

2 of 1974. 35 (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or Magistrate of the first class shall try the offences under this Act."

12. In section 19 of the principal Act, in sub-section (1),—

Amendment
of section 19.

(a) after the words "or air forces of the Union", the words "or other armed forces of the Union constituted by any law for the time being in force" shall be inserted;

40 (b) the following proviso shall be inserted, namely:—

"Provided that any aircraft belonging to an armed force of the Union other than naval, military or air forces of the Union, for which the provisions of this Act and the rules made thereunder are applicable on the date of commencement of the Aircraft (Amendment) Act, 2020, shall continue to be so governed by this Act and the rules made thereunder till such date as the Central
45 Government may, by notification in the Official Gazette, specify."

Transitional provisions relating to existing Authorities.

13. Anything done, or any action or decision taken, or any order or direction issued, by any authority set up pursuant to the provisions of the principal Act or rules made thereunder, prior to the date of coming into force of this Act, shall, insofar as such action or decision or direction are relatable to the functions of the Directorate General of Civil Aviation or the Bureau of Civil Aviation Security or the Aircraft Accidents Investigation Bureau, as the case may be, shall be deemed to have been done or taken or issued by the Directorate General of Civil Aviation or the Bureau of Civil Aviation Security or the Aircraft Accidents Investigation Bureau, as the case may be, constituted under sections 4A, 4B and 4C, respectively, of this Act. 5

STATEMENT OF OBJECTS AND REASONS

The Aircraft Act, 1934 (the Act) was enacted to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft. It makes provisions for securing the safety of aircraft operations in India and carrying out civil aviation operations as per the internationally accepted standards, procedures and practices as laid down by the International Civil Aviation Organisation (ICAO).

2. The ICAO, under its Universal Safety Oversight Audit Programme and the Universal Security Audit Programme, conducts regular safety and security audits of all the countries which are signatory to the Chicago Convention to ensure that the signatories are fulfilling their obligation of safety and security oversight functions. The Federal Aviation Administration of the United States of America also conducts safety audits of countries whose airlines operate to the United States of America under its International Aviation Safety Assessment Programme. India, as a signatory, is also subjected to such periodical audits by ICAO and Federal Aviation Administration.

3. The audit conducted by the ICAO in the years 2012 and 2015 have indicated a need to amend the Act to give proper recognition to the regulators under the Act, to enhance the maximum quantum of fines and to empower the departmental officers to impose financial penalties on individuals or organisations involved in violations of the legal provisions and to include certain areas of air navigation services for rule making purpose under section 5 of the Act.

4. Further, based on the repeated requests from Border Security Force for exemption under rule 160 of the Aircraft Rules, 1937, a need was felt to keep the aircraft and personnel of Border Security Force or any other armed forces of the Union operating such aircraft, outside the purview of the Act from such date the Government may decide.

5. The Aircraft (Amendment) Bill, 2020 which seeks to give effect to the aforementioned decisions, *inter alia*, provides for the following, namely:—

(a) to define the expressions "Directorate General of Civil Aviation", "Bureau of Civil Aviation Security" and "Aircraft Accidents Investigation Bureau";

(b) to empower the Central Government to constitute the Directorate General of Civil Aviation, Bureau of Civil Aviation Security and Aircraft Accidents Investigation Bureau under the Act and to specify their responsibilities thereof;

(c) to empower the Central Government to issue directions to the Directorate General of Civil Aviation, Bureau of Civil Aviation Security and Aircraft Accidents Investigation Bureau on any matter if it is considered necessary so to do in public interest;

(d) to empower the Central Government to review any order passed by the Director General of Civil Aviation and the Director General of Civil Aviation Security and also direct them to rescind or modify such order;

(e) to include regulation of all areas of air navigation services;

(f) to empower the Bureau of Civil Aviation Security or any authorised officer to issue directions;

(g) to enhance the maximum limit of fine from the existing ten lakh rupees to one crore rupees;

(h) to appoint designated officers for adjudging penalties;

(i) to provide for compounding of offences;

(j) to keep aircraft belonging to any armed forces of the Union other than naval, military or air force outside the purview of the Act.

6. The Bill seeks to achieve the above objects.

NEW DELHI;
The 22nd January, 2020.

HARDEEP SINGH PURI.

FINANCIAL MEMORANDUM

The Bill if enacted, would not involve any expenditure either recurring or non-recurring from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill proposes to insert a new section 10A. Sub-section (2) of the said section empowers the Central Government to appoint by order published in the Official Gazette such number of officers not below the rank of Deputy Secretary to the Government of India or equivalent, as it considers necessary, to be designated officers for adjudging penalty under sub-section (1), in such manner as it may provide by rules. Sub-section (6) of the said section further empowers the Central Government to provide by rules the form, manner and fees to be accompanied with in respect of appeals to be filed under sub-section (5). The said clause further proposes to insert a new section 10B, which empowers the Central Government to make rules to provide for the manner of suspension or cancellation of the licence, certificate or approval issued to any person under the Act, if such person contravenes any of the provisions of the Act or the rules made thereunder.

2. Clause 11 of the Bill proposes to insert a new section 12A, which empowers the Central Government to make rules to provide for the manner in which offences punishable under sections 10,11,11A,11B and section 12 of the Act or under any rules made thereunder, shall be compounded by the Director General of Civil Aviation or Director General of Bureau of Civil Aviation Security or Director General of Aircraft Accidents Investigation Bureau, as the case may be. Sub-section (4) of the said section further empowers the Central Government to make rules to provide for the manner in which every application for compounding of an offence shall be made.

3. The matters in respect of which rules may be made under the proposed legislation are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE AIRCRAFT (AMENDMENT) ACT, 1934

(22 OF 1934)

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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. Safety oversight functions.

5. (1) * * * * *

(2) Without prejudice to the generality of the foregoing power, such rules may provide for— Power of Central Government to make rules.

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(*qq*) the prohibition of slaughtering and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius, of ten kilometres from the aerodrome reference point; and

* * * * *

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 (*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], 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.

(2) Every direction issued under sub-section (1) shall be complied with by the person or persons to whom such direction is issued.

* * * * *

10. (1) If any person contravenes any provision of any rule made under clause (1) 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, 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 which may extend to ten lakh rupees. Penalty for act in contravention of rule made under this Act.

(1A) If any person contravenes any provision of any rule made under clause (*qq*) 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 kilometres from the aerodrome reference point, he shall be punishable with imprisonment which may extend to three years, or with fine which may extend to ten lakh rupees, or with both.

2 of 1974.

(1B) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence referred to in sub-section (1A) shall be cognizable.

(2) In making any other rule under section 5 or in making any rule under section 4, 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 two years, or with fine which may extend to ten lakh rupees, or with both.

Penalty for flying so as to cause danger.

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 two years, or with fine which may extend to ten lakh rupees, or with both.

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

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 two years or with fine which may extend to one thousand rupees, or with both.

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

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 two years, or with fine which may extend to ten lakh rupees, or with both.

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Saving of application of Act.

19. (1) Nothing in this Act or in any order or rule made thereunder other than a rule made under section 8A or under section 8B shall apply to or in respect of any aircraft belonging to or exclusively employed in the naval, military or air forces of the Union, or to any person in such forces employed in connection with such aircraft.

(2) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any lighthouse to which the Indian Lighthouse Act, 1927 applies or prejudice or affect any right or power exercisable by any authority under that Act.

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LOK SABHA

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BILL
further to amend the Aircraft Act, 1934.

(Shri Hardeep Singh Puri, Minister of State for Civil Aviation)