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Domestic Air Laws in India

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ABSTRACT

As more amenities and luxuries become available to the populace, Indians' quality of life is improving daily. The transition from land transportation to air transportation took a while since it was not a simple procedure. However, due to its conversion, the aviation industry is currently experiencing a boom, and there is no turning back. The covid epidemic prevented it from becoming the third-largest aviation business by 2020, but it still plans to reach its peak in 2030. And right now, focusing on airport infrastructure, foreign investments, etc., is all that is necessary for the sector to flourish successfully. This article deals with the legislation regulating aviation in India, regulatory bodies, air traffic rules, and other rules relating to airlines.

Keywords: Aviation, Air Traffic, Aeronautics Business

I. INTRODUCTION

The lifestyle of Indian citizens is improving day by day as the people of our country are getting all types of luxuries, and facilities. As this was not an easy process it took a long time for the citizens of the country to shift from land transport to air transport. But as it has converted now the airlines industry is at its boom now and there is no going back. By 2020, it aims to be the 3rd biggest airline industry, but that was not possible due to covid outbreak but it aims to be at a peak in 2030. And now it does not need to do so much for the successful development of the sector they just have to emphasize on the airport infrastructure, foreign investments etc just these minor additions will give a major boom to the successful development of this sector. Our country's aviation comes in one of the first ten countries around the globe, with a market value of almost US \$ 16 billion, yet it represents only a small part of the country's performance and the ability. The present aviation sector structure must be reviewed in light of the 2016 National Public Aviation Policy, which came on June 15, 2016. The Ministry of Public Aviation (MoCA) is in charge of overseeing India's aviation sector. It is crucial in developing and implementing national policies and programmes for public aviation growth and administration, as well as developing and implementing effective and efficient air transportation strategies. The Aircraft Act of 1934 was also authorised by the Ministry of Civil Aviation.

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II. LEGISLATIONS REGULATING AVIATION IN INDIA

One of the legislations came in India in the year of 1911 which was said to be one of most ignorant act as their was no daily flying routine of the flights till 1920s, save from Humber flights in 1911. The legislation that came in 1911 was The Indian Airships Act, 1911, was the first piece of law passed in India, and it aimed to govern the manufacturing, ownership, usage, sale, import, and export of aircrafts. Therefore such a legislation was of no use , it talked of manufacturing of the aircrafts that didn't even begin even after after many decades from when that act was passed. Then came the 1934 Aircraft Act.

1. The Aircraft Act, 1934 and the Aircraft Rules, 1937

India is a signatory to a 1929 Warsaw Convention, an international convention regulating the responsibility of air carriers in international passengers, luggage, and freight carrying. Following a British statute, India adopted the Carriage of Air Act, 1934 (20 of 1934) to fully comply to the terms of the Treaty for such Unification of Certain Rules pertaining to International Carriage by Air. Domestic carriage has been made subjected to the requirements of this Act, subject to such exclusions, adjustments, and changes, as a result of notifications published in this regard.

2. The Carriage by Air Act, 1972

The legislation aims to put into practise the principles of the Warsaw Convention on International Air Carriage, that establishes obligation for international carriage of passengers, baggage, or cargo by aircraft for compensation. This Act becomes effective on May 15, 1973. (1973). In India, there is no specific law governing domestic air transportation.

3. The Anti-Hijacking Act, 1982

The Anti-Hijacking Act implements the Convention for the Suppression of Unlawful Seizure of Aircraft and provides for punishment for the offence of hijacking.

4. The Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982

The Suppression of Unlawful Acts Against Civil Aviation Safety Act of 1982 enforces the aforementioned Convention and delivers for the sanction of various crimes such as committing violent acts on board an aircraft in flight, felonies at airlines, causing destruction or harm to navigation facilities, and so on. Both these pieces of regulation help to attain the Convention's goal.

5. The Civil Aviation Requirements

They establish broad principles for airworthiness, airport requirements and licensing, aircraft layout specifications and type certifications, airline staff guidelines and licensing, aircraft operation, air space and air traffic management, aviation environmental preservation, and so on.

6. The Aircraft (Carriage of Dangerous Goods) Rules, 2003

It governs the transportation of hazardous products such as explosive materials and radioactive elements by air, as well as the foundation of training programmes by or on behest of dangerous goods shippers, operators, ground handling agencies, freight forwarders, and other entities implicated in the security checkpoints of passengers, their hand luggage, and cargo.

7. The Airports Authority of India Act, 1994 (“AAI Act”) and Rules

It created the AAI to supervise and operate terminals and aeronautical communication stations. The AAI Act was passed to create and formalise the basis for establishing an authority to oversee airport facilities. The AAI Act mandates that the AAI manage airports, civil enclaves, aeronautical communication stations, expel unauthorised inhabitants of airport grounds, as well as provide air traffic and air transportation services at any airport or civil colony.

III. REGULATORY BODIES

As we know different sectors have different ministries that has duty to govern, develop and regulate their respective authorities for the aviation sector there is also separate ministry i.e. Ministry of Civil aviation. They have the role in regularizing the aviation industry and enforcing different acts like Aircraft Act, 1934, Rules of 1937 and many of the other acts concerning the aviation industry². Some of the regulatory authorities that work under guidance of the ministry are listed:

1. Director General of Civil Aviation (DGCA)

This authority main function is in reference with security concerning issues. The authority also collaborates with the international organizations to securitize the sector. DGCA has the duty to enforce legislations related to sector, airworthiness requirements.

2. Airport Authority of India (AAI)

This authority mainly concern with advancement of the infrastructure of the airports. The Airport Authority of India was established in 1995 April. The aim was to consolidate to authorities as a single authority i.e. International Airports Authority of India and the National

² Vattipalli, Uthej “Aviation Laws and Air Carrier Liabilities” 31st May 2019 <https://pdf.sciencedirectassets.com> (Accessed: 12th May 2022)

Airports Authority. The functions of AAI are to give a push to the aviation sector for the development and transformations of the airports all over the country.

3. Airport Economic Regulatory Authority (AERA)

AERA oversees airport efficiency requirements and controls fares and other aeronautical expenses. According to Sachdeva, the Legislation additionally introduced the Appellate Tribunal, that resolves conflicts amongst service suppliers or between service providers and consumer groups .

4. Bureau of Civil Aviation Security (BCAS)

On the advice of the Pande Committee, the Bureau of Civil Aviation Security (BCAS) was established as a cell within the DGCA in January 1978. On April 1, 1987, it was designated as an independent department within the Ministry of Civil Aviation. According to Sachdeva, BCAS' key tasks includes establishing standards and methods for civil flight security at both international and domestic airports in India (1987)

IV. STANDARD AIR TRAFFIC CONTROL

The Act of 1972 includes whole territory of the country as well as applicable to the residents of country no matter what the identity of the plane carrying warship. Nowadays security and the safety of the citizens who are travelling through planes is more important as this generation is more comfortable in traveling through air than any other means of transport. Subsequently, a two-way pay framework laid in the present legislation out when the transporter is solidly bound to the initial 100,000 unique drawing freedoms (SDR) or 8.8 million rupees. For any case of in excess of 100,000 SDR harms, airplane administrators are not responsible on the off chance that it is shown that the harm was not because of carelessness or other unfair demonstration or exclusion by the boss or their staff or specialists, or that harm was exclusively the consequence of carelessness or other wrong However, nothing keeps the transporter and traveler from going into a consent to fix the maximum furthest reaches of harm. Furthermore, any agreement to help the transporter in a difficult circumstance or to specify a lower bound than those outlined in these regulations will be null and void.

V. PASSENGER RIGHTS

The DGCA Office issued Human Aviation Requirements, Series 'M' Part IV on August 6, 2010, and it became operational on August 15, 2010. The series say that if the information's of the flights which have changed schedules or are cancelled the travellers of that flight should be given information before the boarding times prescribed in the boarding pass. If not given the

information in reasonable time then the aircraft have to pay the compensation or return the price of the tickets. Or the same amount that would be given to the passenger if he/she earlier cancelled the tickets.³

The judicial body created by the Aircraft (Amendment) Bill, 2020 is the Directorate General of Civil Aviation (DGCA). This division investigates aviation mishaps and incidents.

1. Where and When does this act work ?

India's Civil Aviation (ICAR) prerequisites apply on the off chance that you have been flying from, to or inside India paying little heed to which aircrafts are working or your ethnicity. If your plane is additionally qualified for remuneration under EU conditions you can pick which Rule guarantees you the most noteworthy pay.

2. The maximum amount of compensation required

The guideline was evaluated in August 2016, the greatest measure of pay has now expanded from 3,000 INR to 20,000 INR. How much the case is explicit yet relies upon many elements.

3. No compensation given

Assuming that the purposes behind the dropping or delay are past the control of the airplane, (for instance extreme climate, tremors, storms, and so on) they might deny payback.

VI. OTHER RULES RELATING TO AIRLINE

The Indian Competition Commission (CCI) is mandated by the Competition Act of 2002 to operate as that of an industrial regulator and manage the Indian airline industry. CCI rejects those in the tourism industry who are seen as being at blame for cartelization and for violating Section 3 of the Competition Act 2002 (against rivalry agreements).

SAFETY

The new anti-hijacking legislation has made a few improvements to the laws, but it falls short on the finer points, such as providing ground crew reassurance or the protection of travellers and labourers in a country where a plane can be seized. The Hague Convention of 1971 and the Beijing Convention of 2010 are given effect by the New Anti-Theft Act of 2016, which was passed by the Lok Sabha on May 9th. He was familiar with a few key revisions to this outdated legislation. The purpose of this activity is to broaden the meaning of the word "vehicle seizure" by along with its meaning, as well as to portray the fear of a commandeering crime.

³ "Indian Laws related to Airline Industry" <https://legaldesire.com/indian-laws-relating-to-airline-industry/> (Accessed on: 13th May 2022)

In Case of Death

Air Act 1972 incorporates the Montreal Convention 1999 regulations connecting with obligation and compensation to be paid in case of crooked passing. As per Article 21 of Montreal Convention 1999, on account of 12 the demise of travelers, the aircraft is at risk to pay up to 100,000 SDR. Assuming that there is a requirement for pay past this cutoff, the carrier might question it. In the event that it is demonstrated that such harm was not the aftereffect of carelessness or wrongdoing or skipping of the airplane, its faculty or specialists, or on the other hand assuming the harm was the consequence of carelessness or other unjust demonstration or oversight of an outsider, then, at that point, the aircraft isn't responsible to pay the greatest sum.

How Indian courts work in regard of obligation in case of a demise is obviously shown on account of **National Aviation Company of India Ltd v. Abdul Salam and others**⁴ the case is related to the one of the incidents of the plane malfunctions that resulted into collapsing of the plane when it reached at Manglore international Airport on May 22, 2011, the plane was flying from dubai Airport. This accident lead to 158 casualties and injuring many of the passengers. It was assumed that the accident happened due the irresponsibility of the pilot. And court while deciding the case gave the verdict in favour of the passengers.

The regulations includes in the Montreal Convention 1999 arrangements connecting with the freedoms and liabilities of transporters, travelers, distributors, transporters and different people, as per the arrangements of the Montreal via Act of 1972, will have impact in our country in regard of any aircraft in which these regulations applicable, paying little heed to identity. The manager is answerable for the accompanying circumstances as given in the Montreal via Act of 1972: individual injury: the transporter is responsible for harms brought about in case of the demise or any of wound of a traveler or any substantial injury supported by the traveler, assuming the incidental harm happened on the airplane.

OBLIGATIONS TOWARDS ENVIRONMENT

Earlier till now, only custom-based regulation remedy was available for noise and other contaminations. Modern climate control began with the Stockholm Declaration of the United Nations Conference on the Human Environment, which was issued on June 16, 1972. The United Nations signed an agreement for nature in 1982, and the Hague announcement in 1989 imposed a sanction on the environment, primarily to protect the ozone layer internationally and prevent an increase in global air temperature. Although there is no specific agreement in India on flying pollution, our Indian Constitution states that the government is responsible for

⁴ (2011) 4 KLT 662

ensuring and improving the nation's climate, forests, and natural life.

The American legislature approved a law in 1990 stating that all corporate armadas with planes weighing more than 75000 pounds shall have at least 2000 planes at stage three or stage two. According to the United States Senate bill, the Quiet People Group Act of 1947, it would revive the climate assurance authority's office of disturbance abatement and control, as well as move the US government avionics organisation to listen carefully and to care for flight noise. India There are no specific agreements in relation to flight contamination; however, our Indian Constitution expresses that it is the state's responsibility to protect the environment and to operate for advancement as well along with natural life and woodlands. Both fundamental rights and DPSP discusses climate Our sacred arrangements are upheld by various regulations, it is considered as the dad of different regulations.⁵

The EPA 1986 was established under Article 253 of the Constitution and went into effect following the Bhopal gas tragedy. Since there are concerns, a massive amount of regulations, such as the Water Act and the Air Act, emerge. The scope of the climate insurance act is broad in the context that it includes water, air, and land, as well as their interactions with people and other living life modalities. The existence of toxicants in the atmosphere is defined as ecological pollution in the Environment Protection Act, and climate toxicants are defined as the strong, fluid, and vaporous substance present in such fixation as may be and which are causing damage to the atmosphere.

According to Section 15 of the EPA, anyone who neglects to adhere with or rejects any of the clause of the Act or any regulations provided thereunder will be liable to imprisonment for up to five years, a fine of up to one lakh rupees, or both. Section 17 of this act states that if an offence under this act is committed by and top of the division, the department will be held accountable and punished adequately.

VII. JURISDICTION OF AIR LAWS RELATED DISPUTES

The meetings for settlement is determined by the topic of the discussion, for example: The Competition Commission of India (CCI) handles issues relating to the Competition Act, 2002 ("CA02"): Customer courts handle independent buyer complaints. According to the Aircraft (examination of Accidents and Occurrences) Rules, 2017, malfunctions in airplanes must be investigated by the Aircraft Accident Examination Bureau: and matters that concern the compensation paying are dealt in 9B Section of the act. It is decided according to the judge's

⁵ Sahani, Kashmira "Aviation Pollution and Environmental Issues" 4th June 2020 <https://thedailyguardian.com/aviation-pollution-and-environmental-issues/> (Accessed on: 12th May 2022)

understanding or the set criteria by the State Government.

We all know that the last resort to seek justice is apex court of our country that welcome all types of the petitions and pass their verdict by ending all types of the discussions. In the matters of aviation the high court accept the petition under Writ jurisdiction. And mostly high courts are one of the favored courts for the discussion of this topic. The Director General of Civil Aviation keep tracks over such cases and also ensures the justice.

As we are well aware of the fact that apex courts, high courts are already under the piles of the cases that are still under process and it becomes difficult for them to take pleas over such matter directly. So to lower the burden on these courts the jurisdiction of some categories of aviation cases is given to consumer court under Consumer Protection Act, 2019.

In addition, the Airport Economic Regulatory Authority Appellate Tribunal came into effect under Section 17 of the Airport Economic Regulatory Authority of India Act, 2008 to resolve any kind of disagreements between the specialised cooperatives and perhaps purchasers. Under Section 31(1) of the Act, the Supreme Court is responsible for hearing numerous requests against by the Court's judgments.

The proceeding of the aviation cases are held according to the Crpc as the crime under act are non-cognisable and non-bailable.

VIII. CONCLUSION

The 2017 perspective on the aeronautics business in India is wonderful. It is well realized that the nation will record roughly 7.3 percent development in 2017. Furthermore, the focal government's proposition to put intensely in the territorial air terminal improvement area is supposed to work for the business. Notwithstanding, considering that the expense of deciding to fly actually is by all accounts excessively high for the vast majority, most would agree that the business will in any case be thought of. Exceptional consideration ought to be given to the accompanying occasions.

The National Aviation Policy (NCAP) became effective in June 2016, determined to reinforce the avionics business, which desires to fill from here on out. Raised air charge motivating forces; the foundation of unlawful airplane fix and upkeep administrations expanding the FDI furthest reaches of unfamiliar aircrafts; and to give financing to a successful transporter hole to fortify territorial availability. Setting the toll cost based on movement time as accommodated in the National Civil Aviation strategy is a welcome proposition. The focal government has found a way alternate way to resolve this issue to extend air admittance to additional

individuals.
