AIRCRAFT MANUAL
(INDIA)

VOLUME II

NATIONAL CONVENTIONS

(Revised Edition corrected upto 30 September, 2003)
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CHAPTER I

THE AIR CORPORATIONS ACT, 1953

(27 OF 1953)

An Act to provide for the establishment of Air Corporations, to facilitate the acquisition by the Air Corporations of undertakings belonging to certain existing Air companies and generally to make further and better provisions for the operations of air transport services.

Be it enacted by Parliament as follows:

(a) For the Statement of Object and Reasons, see Gazette of India, 21-3-1953, Pt. II, S.2 Extra, page 148

CHAPTER I

PRELIMINARY

1. Short title and commencement.- (1) The Act may be called The Air Corporations Act, 1953.

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


The Act has been extended to Union Territories of Goa, Daman and Diu by the Goa, Daman and Diu (Laws) Regulation, 1962 (12 of 1962), (w.e.f. 1-2-1965), to Dadra and Nagar Haveli by the Dadra and Nagar Haveli (Laws) Regulation, 1963 (6 of 1963), (w.e.f. 1-7-1965); and to Pondicherry by the Pondicherry (Laws) Regulation, 1963 (7 of 1963), (w.e.f. 1-10-1963).- Goa is now a State - See Goa, Daman and Diu Reorganisation Act (18 of 1987), S.3(30-5-1987).

2. Definitions.— In this Act, unless the context otherwise requires -

(i) “aircraft” means any machine which can derive support in the atmosphere from reactions of the air and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;

(ii) “air transport service” means a service for the transport by air of persons, mails or any other thing, animate or inanimate, for any kind of remuneration whatsoever, whether such service consists of a single flight or a series of flights;

(iii) “associate” in relation to either of the corporations means any subsidiary of the corporation or any person with whom the corporation has made an agreement in accordance with clause(h) of subsection (2) of section 7;

(iv) "Corporations" means "Indian Airlines" and "Air India International" established under section 3, and “Corporation” means either of the Corporations;

(v) the expression “existing air companies” means the Air India Ltd., the Air Services of India Ltd., the Airways (India) Ltd., the Bharat Airways Ltd., the Deccan Airways Ltd., the Himalayan Aviation...
as per S.7(I) of the Air Corporations (Amendment) Act, 1962 (17 of 1962), S.7(2) of the Amendment Act (17 of 1962) provides as under:

“(2) The change of name of “Air India International” by sub-section (1) shall not affect any rights and obligations of that Corporation or render defective any legal proceeding by or against it, and any legal proceedings which might have been continued or commenced by or against that Corporation by its former name may be continued or commenced by or against it, by its new name.”

4. Constitution of the Corporation.—

a[(1) The general superintendence, direction and management of the affairs and business of each of the Corporations shall vest in a Board of directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation under this Act.

(2) Before appointing a person to be a director of either of the Corporations, the Central Government shall satisfy itself that person will have no such financial or other

(b) The Board of directors shall consist of a Chairman to be appointed by the Central Government, and not less than eight and not more than fourteen other directors to be appointed by the Central Government and the Chairman or any other director may be required to render whole time or part-time service as the Central Government may direct.

Provided that—

(a) that same person may be appointed to be the Chairman of both the Corporations or Chairman of one and director of the other;

(b) the same persons may be appointed to be directors of both the Corporations.]

(2) Before appointing a person to be a [director] of either of the Corporations, the Central Government shall satisfy itself that person will have no such financial or other
interest as is likely to affect prejudicially the exercise or performance by him of his functions as a director of the Corporation and the Central Government shall also, satisfy itself from time to time with respect to every director of the Corporation that he has no such interest; and any person who is, or whom the Central Government proposes to appoint and who had consented to be a director of the Corporation shall, whenever required by the Central Government so to do, furnish to it such information as the Central Government considers necessary for the performance of its duties under this sub-section.

(3) A director of either of the Corporations who is in anyway directly or indirectly interested in a contract made or proposed to be made by the Corporation, or in any contract made or proposed to be made by an associate of the Corporation which is brought up for consideration by the Corporation, shall, as soon as possible after the relevant circumstances have come to his knowledge disclose the nature of his interest at a meeting of the Corporation; and the disclosure shall be recorded in the minutes of the Corporation and the director shall not take any part after the disclosure in any deliberation or decision of the Corporation with respect to that contract.

(4) During the temporary absence of the Chairman of either of the Corporations, the Central Government may appoint another person, whether a director of the Corporation or not, to act as the Chairman.

(5) Save as otherwise provided in this section, nothing contained in this Act shall be deemed to disqualify the managing director of either of the Corporations from being appointed to be a director thereof.

5. Conditions of service of members.—

(1) The Chairman and other directors of each of the Corporations shall ordinarily be entitled to hold office for the period specified in the order of appointment, unless the appointment is terminated earlier by the Central Government.

Provided that any director may at any time by notice in writing addressed to the Central Government resign his office.

(2) Subject to the previous approval of the Central Government, each of the Corporations shall pay to every director thereof in respect of his office as such, such remuneration by way of salary, allowances, fees or otherwise as may be determined by the Corporation and to the Chairman in respect of his office as such, such remuneration, whether in addition to the remuneration to which he may be entitled in respect of his office as a director or otherwise, as it may similarly determine.

(a) Word “members” in sub-section (1) and word “member” in the proviso to sub-section (1) and sub-section (2), substituted by Air Corporations (Amendment) Act (49 of 1971), S.3(1-2-1972).

(b) Substituted for words “such remuneration by way of allowances”, ibid, S.3(ii)(b) (1-2-1972).

6. Vacancy in Corporation not to invalidate proceedings.— No act or proceeding of either of the Corporations shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the Constitution of, the Corporation.

7. Functions of the Corporation.— (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of each of the Corporations to provide safe, efficient, adequate, economical and properly co-ordinated air transport services, whether internal or international or both, and the Corporations shall so exercise their powers.
as to secure that the air transport services are
developed to the best advantage and, in particular,
so exercise those powers as to secure that the
services are provided at reasonable charges.

(2) Without prejudice to the generality of
the powers conferred by sub-section (1), each
of the Corporations shall, in particular, have power-

(a) to operate any air transport service, or
any flight by aircraft for a commercial
or other purpose, and to carry out all
forms of aerial work;

(b) to provide for the instruction and training
in matters connected with aircraft or
flight by aircraft of persons employed,
or desirous of being employed, either by
the Corporation or by any other person;

(c) with the previous approval of the Central
Government, to promote any
organisation outside India for the purpose
of engaging in any activity of a kind
which the Corporation has power to carry
on;

(d) to acquire, hold or dispose of any
property, whether movable or
immovable, or any air transport
undertaking;

(e) to repair, overhaul, reconstruct,
assemble or recondition aircraft, vehicles
or other machines and parts, accessories
and instruments thereof or therefore and
also to manufacture such parts, accesso-
ries and instruments, whether the aircraft,
vehicles or other machines are owned by
the Corporation or by any other person;

(f) to enter into and perform all such
contracts as are calculated to further the
efficient performance of its duties and
the exercise of its powers under this
Act;

(g) to perform any functions as agent or
contractor in relation to an air transport
service operated by any other person;

(h) with the previous approval of the Central
Government, to enter into agreements
with any person engaged in air
transportation with a view to enabling
such person to provide air transport
services on behalf of or in association
with the Corporation;

(i) with the previous approval of the Central
Government, to determine and levy fares
and freight rates and other charges for or
in respect of the carriage of passengers
and goods on air transport services
operated by it;

[[ii] to make such grants as it thinks fit as
contribution or donation, in furtherance
of the interests of the Corporation, to
any fund established for a benevolent or
charitable purpose:

Provided that nothing in this clause
shall be construed as empowering
the Corporation to make any such
grant to any political party or for
any political purpose to any
individual or body;

(j) to take such steps as are calculated to
extend the air transport services provided
by the Corporation, whether within or
without India, including the development
of feeder services and the improvement
of the types of aircraft used in air
transport services;

(k) to take such steps as are calculated to
promote the interests of the Corporation
or to improve the services the
Corporation may provide, including
provision of catering, hotels, restaurants,
rest rooms, goods-sheds, ware-houses
and transport by land or water in
connection with any air transport service
or any other amenity or facility;
(kk) to form one or more companies under the Companies Act, 1956 to further the efficient performance of its duties and the exercise of its powers under this Act:

Provided that the paid up share capital of every company so formed shall be held exclusively by the Corporation;

(l) to take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power, or the discharge of any function or duty conferred or imposed on it by this Act.

(3) Nothing contained in this section shall be construed as —

(a) authorising the disregard by the Corporation of any law for the time being in force, or

(b) authorising any person to institute any proceeding in respect of a duty or liability to which either of Corporations or its employees would not otherwise be subject.

(a) Clause (ii) inserted by the Air Corporations (Amendment) Act (49 of 1971), S.4(1-2-1972).

(b) Words “including provision of catering, rest rooms” in cl.(k) substituted, ibid.

(c) Clause (kk) inserted, ibid.

8. Appointment of officers and other employees of the Corporation.— (1) For the purpose of enabling it efficiently to discharge its functions under this Act, each of the Corporations shall appoint a managing director and, subject to such rules as may be prescribed in this behalf, may also appoint such number of other officers and employees as it may think necessary:

Provided that the appointment of the managing director and such other categories of officers as may be specified after consultation with the Chairman in such rules shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 20, every person employed by each of the Corporations shall be subject to such conditions of service and shall be entitled to such remuneration and privileges as may be determined by regulations made by the Corporation by which he is employed.

(3) Neither the managing director nor such other employee of either of the Corporations as may be specified in this behalf by the Central Government shall, during his service in the Corporation, be employed in any capacity whatsoever or directly or indirectly have any interest in any air transport undertaking other than an undertaking of either of the Corporations, or in any other undertaking which is interested in any contract with either of the Corporations.

(a) Substituted for the words ‘General Manager’ by the Air Corporation (Amendment) Act (49 of 1971), S.5 (1-2-1972).

9. Corporations to act on business principles.— In carrying out any of duties vested in it by this Act, each of the Corporations shall act so far as may be on business principles.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

10. Capital of the Corporations.— (1) All non-recurring expenditure incurred by the Central Government for, or in connection with, each of the Corporations up to the date of establishment of that Corporation and declared to be capital expenditure by that Government, shall be treated as capital provided by the Central Government to that Corporation.

(2) The Central Government may provide any further capital that may be required by either of Corporations for the carrying on the business of the Corporation or for any purpose connected
(3) Each of Corporations may, with the consent of the Central Government, or in accordance with the terms of any general authority given to it by the Central Government,

(a) borrow money for all or any of the purposes of the Corporation, and

(b) secure the payment of money borrowed by it or any interest thereon by the issue of bonds, debentures, debenture-stock or any mortgage or charge or other security on the undertaking of the Corporation or any part of it or on any of its properties.

11. Vesting of properties in the Corporation.— All properties, assets and funds owned or acquired by the Central Government for the purpose of Indian Airlines or, as the case may be, Air India International before the establishment of those Corporations shall, on such establishment, vest in the Corporation concerned.

12. Funds of the Corporation.— (1) Each of the Corporations shall have its own funds and all receipts of the Corporations shall be carried thereto and all payments for the Corporations shall be made therefrom.

(2) Each of the Corporations may keep in a [account] with any scheduled bank as defined in section 2 of the Reserve Bank of India, Act, 1934 or in any other bank approved by the Central Government in this behalf a sum of money not exceeding such amount as may be prescribed, but any moneys in excess of the said sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government.

(3) Substituted for the words “current account” by the Air Corporations (Amendment) Act (49 of 1971), Section 6 (1-2-1972).

13. Powers of the Corporations in regard to expenditure.— Each of the Corporations shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit on objects or for purposes authorised by this Act and such sum shall be treated as expenditure out of the funds of that Corporation.

14. Corporations to assume obligations of Central Government in respect of certain matters.— (1) All obligations incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the Central Government for any of the purposes of this Act before the establishment of either of the Corporations shall be deemed to have been incurred, entered into or engaged to be done by, with or for Indian Airlines or, as the case may be, Air India International according as the obligations contracts, matters and things relate to the purposes of the former Corporation or the latter.

15. Accounts and audit.— (1) The Corporations shall maintain proper accounts and other relevant records and prepare annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Corporations shall be audited annually by the Comptroller and Auditor General of India and any expenditure incurred by him in connection with such audit shall be payable by the Corporations to the Comptroller and Auditor General of India.

(3) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Corporations shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the officers of the corporations.
(4) The accounts of the Corporations as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

15A. Audit of accounts of companies formed by Corporations. — (1) Notwithstanding anything contained in the Companies Act, 1956, the auditor of any company formed by either of the Corporations under clause (kk) of sub-section (2) of section 7 shall be appointed or re-appointed by the Corporation concerned on the advice of the Comptroller and Auditor General of India.

(2) Save as otherwise provided in sub-section (1), in addition to the provisions contained in the Companies Act, 1956, relating to the audit of the accounts of any company, the following provisions shall apply to the audit of the accounts of any company referred to in sub-section (1), namely:—

(i) the Comptroller and Auditor General of India shall have power to conduct a supplementary or test audit of the company’s accounts by such person or persons as he may authorise in this behalf; and for the purposes so authorised, on such matters by such person or persons and in such form as the Comptroller and Auditor General may, by general or special order, direct;

(ii) the author appointed or re-appointed under sub-section (1) shall submit a copy of his audit report to the Comptroller and Auditor General of India who shall have the right to comment upon, or supplement, the audit report in such manner as he may think fit;

(iii) any such comments upon, or supplement to, the audit report shall be placed before the annual general meeting of the company at the same time and in the same manner as the audit report.]

(a) Inserted by the Air Corporation (Amendment) Act (49 of 1971), S.7(1-2-1972).

CHAPTER IV
ACQUISITION OF UNDERTAKINGS OF EXISTING AIR COMPANIES

16. Undertakings of existing air companies to vest in the Corporations.— On such date as the Central Government may, by notification in the Official Gazette, appoint (hereinafter referred to as “the appointed date”), there shall be transferred to and vest in -

(a) Indian Airlines, the undertaking of all the existing air companies (other than Air India International Ltd.), and

(b) Air India International, the undertaking of the Air India International Ltd.

(a) The day appointed is 1-8-1953; see S.R.O. 1262 in Gaz. Ind., 1953, Pt. II, S.3, page 931.

17. General effect of vesting of undertakings in the Corporations.— (1) The undertaking of each of the existing air companies which is transferred to and which vests in either of the Corporations under Section 16 shall, subject to the provisions of section 22, be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, including lands, works, workshops, aircraft, cash balances, reserve funds, investment and book debts and all other rights and interests arising out of such property as were immediately before the appointed date in the ownership, possession or power of the existing air company in relation to the undertaking, whether within or without India, and all books of account and documents relating thereto, and subject to the provisions contained in Section 22, shall also be deemed to include
all borrowings, liabilities and obligations of whatever kind then subsisting of the existing air company in relation to the undertaking.

(2) Any lands works, aircraft, assets or other property vesting in the Corporation under sub-section (1) shall by force of such vesting be freed and discharged from all trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any other order of a Court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Subject to the other provisions contained in this Act all contracts and working arrangements which are subsisting immediately before the appointed date and affecting any of the existing air companies shall, in so far as they relate to the undertaking of that company, cease to have effect or be enforceable against that company or any person who was surety or had guaranteed the performance thereof, and shall be of as full force and effect against or in favour of the Corporation in which the undertaking has vested by virtue of this Act and enforceable as fully and effectually as if, instead of the company, the Corporation had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed date by or against any of the existing air companies in relation to its undertaking may as from that date be continued and enforced by or against the Corporation in which it has vested by virtue of this Act as it might have been enforced by or against that company if this Act had not been passed, and shall cease to be enforceable by or against that company, its surety or guarantor.

18. Reservation of scheduled air transport services to the Corporations.— (1) After the appointed date, it shall not be lawful for any person other than the Corporations or their associates to operate any scheduled air transport service from to, in or across India:

Provided that nothing in this section shall restrict the right of any person,

(a) for the purpose of any air transport undertaking of which the principal place of business is in any country outside India, to operate an air transport service in accordance with the terms of any agreement for the time being in force between the Government of India and the Government of that country; or

(b) to carry passengers for the sole purpose of instructing them in flying or on duties of air-crews; or

(c) to carry passengers or goods for the sole purpose of providing an air ambulance service or a rescue or relief service during any natural calamity; or

(d) to carry passengers or goods for the sole purpose of providing joy rides consisting of flights operated from and to the same aerodrome or place without any intermediate landing or for the purpose of aerial survey, fire fighting, crop-dusting, locust control or any other aerial work of a similar nature; or

(e) to operate, with the previous permission of the Central Government for such period and subject to such terms and conditions as that Government may determine, any scheduled air transport service as aforesaid which is not provided by either of the Corporations or their associates.]

(2) Any person who operates a scheduled air transport service in contravention of the provisions of this section shall be liable in respect of each offence to a fine which may extend to one thousand rupees, or to imprisonment which may extend to three months, or to both.
**Explanation.**—The operation of each flight shall constitute a separate offence for the purposes of this section.

(a) Inserted by the Air Corporations (Amendment) Act, 1962 (17 of 1962), S.2 (30-3-1962).

19. **Licences to cease to be valid.**—With effect from the appointed date, all licences granted under the Indian Aircraft Act, 1934 (22 of 1934) or under the rules made thereunder for the operation of scheduled air transport services shall cease to be valid.

20. **Provisions respecting officers and employees of existing air companies.**—(1) Every officer or other employee of an existing air company (except a director, managing agent, manager or any other person entitled to manage the whole or a substantial part of the business and affairs of the company under a special agreement, employed by that company prior to the first day of July, 1952, and still in its employment immediately before the appointed date) shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in either of the Corporations by virtue of this Act, become as from the appointed date an officer or other employee, as the case may be, of the Corporation in which the undertaking has vested and shall hold his office or service therein by the same tenures, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the existing air company if its undertaking had not vested in the Corporation and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms or conditions are duly altered by the Corporation:

Provided that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Corporation concerned prior to such date as may be fixed by the Central Government by notification in the Official Gazette, intimated his intention of not becoming an officer or other employee of the Corporation.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may direct either of the Corporations in which the undertaking of any existing air company has vested to take into its employment any officer or other employee who was employed by the existing air company prior to the first day of July, 1952, and who has been discharged from service in the company on or after the said date for reasons which, in the opinion of the Central Government appear to be inadequate for the purpose, and where the Central Government issues any such direction, the provisions of sub-section (1) shall apply to such officer or other employee as they apply to any officer or other employee referred to therein.

(3) As from the appointed date the trustees of the provident funds and pension funds or pension schemes of each of existing air companies shall transfer to the Corporation concerned the balances lying to the credit of each of the employees whose services have been transferred to that Corporation by virtue of this Act and also all other balances of the funds or schemes as shall remain after satisfying all demands and liabilities, and thereupon the trustees shall be discharged of the trusts by virtue of this Act.

(4) Notwithstanding anything contained in this Act or in the Indian Companies Act, 1913 or in any other law for the time being in force or in any agreement entered into by an existing air company or in the articles of association of any such company, no director, managing agent, manager or any other person entitled to manage the whole or a substantial part of the business and affairs of the company shall be entitled to any compensation against any existing air company or against either of the Corporations.
for the loss of office or for the premature termination of any contract of management entered into by him with any existing air company and where any existing air company has, after the first day of July, 1952, and before the commencement of this Act, paid to any such person as is referred to in this sub-section any sum by way of compensation to which the person receiving such compensation would not have been entitled if this sub-section were in force at the time of such payment, the existing air company shall be entitled to claim refund of any sum so paid.

(a) 10th of July 1953 was fixed as the date prior to which the notice referred to in the Proviso might be given: see S.R.O. 1170 in Gaz. Ind., 1953, Pt. II-S.3,p.882.

21. Duty to deliver up possession of property acquired and documents relating thereto.— (1) Where any property has vested in either of the Corporations under section 16, every person in whose possession or custody or under whose control the property may be, shall deliver up the property to the Corporation concerned forthwith.

(2) Any person who on the appointed date has in his possession or under his control any books, documents or papers relating to any undertaking which has vested in either of the Corporations under this Act and which belong to an existing air company or would have so belonged if its undertaking had not so vested shall be liable to account for the said books, documents and papers to the Corporation in which the undertaking has vested and shall deliver them up to the Corporation or to such person as the Corporation may direct:

Provided that the Corporation shall produce for inspection by such companies or their authorized representatives the books of account and documents as relate to the affairs of the company for any period prior to the appointed date.

(3) Without prejudice to the other provisions contained in the section, it shall be lawful for the Corporation and the Central Government to take all necessary steps for securing possession of all properties which have vested in the Corporation under section 16.

22. Duty of existing air companies to supply particulars — (1) Where the undertaking of an existing air company vests in either of the Corporations under this Act, the existing air company shall within thirty days from the appointed date of vesting or within such further time as the Corporation concerned may allow in any case, supply to the Corporation particulars of book debts and investments belonging to and all liabilities and obligations of the company subsisting immediately before any appointed date, and also of all agreements entered into by the existing air company and in force on the appointed date, including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employees of the existing air company, under which by virtue of this Act the Corporations have or will or may have liabilities except such agreements as the Corporation may exclude either generally or in any particular case from the operation of this sub-section.

(2) If any existing air company fails to supply to the Corporation concerned particulars of such book debts, liabilities and agreements within the time allowed to it for the purpose under sub-section (1), nothing contained in this Act shall have effect so as to transfer any such book debts, liabilities and agreements to, or to vest the same in, the Corporation.

(3) Either Corporation may be notice in writing within a period of six months after submission of the particulars referred to in sub-section (1) intimate to the existing air company submitting the particulars that such of the book debts and investments as are specified
in the notice are not included in the properties vesting in the Corporation whereupon the compensation provided by section 25 of this Act and the Schedule thereto shall be reduced by the amount of such excluded book debts and investments but the right of such existing air company to recover and retain such excluded book debts shall remain unaffected by this Act.

[a] Substituted for the words “ninety days” by the Air Corporations (Amendment) Act, 1954 (10 of 1954), S. 2 (w.r.e.f. 30-1-1954)

23. Right of Corporations to disclaim certain agreements—(1) Where it appears to either of the Corporations that the making of any such agreements as is referred to in section 22 under which the Corporation has or will have or may have liabilities was not reasonably necessary for the purposes of the activities of the existing air company or has not been entered into in good faith, the Corporation may, within a [one year] from the appointed date, apply to the Tribunal for relief from such agreement, and the Tribunal, if satisfied after making such inquiry into the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the existing air company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

(a) made any payment to any person without consideration or for an inadequate consideration;

(b) sold or disposed of any of its properties or right without consideration or for an inadequate consideration;

(c) acquired any property or right for any excessive consideration;

(d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the company;

(e) entered into any other transaction of such an onerous nature as to cause a loss to or impose a liability on the company exceeding any benefit accruing to the company; or

(f) sold or otherwise transferred any aircraft, equipment, machinery or other property of book value exceeding rupees ten thousand;

and the payment, sale, disposal, acquisition agreement or variation there of, or other transaction or transfer was not reasonably necessary for the purposes of the company or was made with an unreasonable lack of prudence on the part of the company regard being had in either case to the circumstances at the time.

(2) Either of the Corporations may, in the case of any such existing air company as is referred to in sub-section (1) the undertaking of which was vested in the Corporation under this Act, at any time within a [one year] from the appointed date, apply for relief to the Tribunal in respect of any transaction to which in the opinion of the Corporation this section applies, and all parties to the transaction shall, unless the Tribunal otherwise directs, be made parties to the application.

(3) Where the Tribunal is satisfied that a transaction in respect of which an application is
made is a transaction to which this section applies, then, unless the Tribunal is also satisfied that the transaction was a proper transaction made in the ordinary course of business regard being had to the circumstances at the time and was not in any way connected with any provision made by this Act or with any anticipation of the making of any such provision, the Tribunal shall make much order against any of the parties to the application as the Tribunal thinks just having regard to the extent to which those parties where respectively responsible for the transaction of benefited from it and all the circumstances of the case.

(4) Where an application is made to the Tribunal under this section in respect of any transaction and the application is determined in favour of the Corporation the Tribunal shall have exclusive jurisdiction to determine any claims outstanding in respect of the transaction.

[a] Substituted for the words “six months” by the Air Corporations (Amendment) Act, 1954 (10 of 1954.) S. 4 (w.e.f. 30-1-1954).

25. Compensation to be given compulsory acquisition of undertaking— (1) Where the undertaking of any of the existing air companies has vested in either of the Corporations under this Act, compensation shall be given by the Corporation to that company in the manner specified in section 27 and the amount of such compensation shall be determined in accordance with the principles specified in the Schedule to this Act.

(2) Not with standing that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of the compensation to be given in accordance with the aforesaid principles shall be determined by the Corporation and if the amount so determined is approved by the Central Government, it shall be offered to the existing air company in full satisfaction of the compensation payable under this Act, and if the amount so offered is not acceptable to the existing air company, it may within such time as may be prescribed for the purpose have the matter referred to a Tribunal constituted for this purpose by the Central Government for decision.

26. Constitution of special Tribunal to determine compensation.— (1) The Tribunal to be constituted under section 25 shall consist of three members appointed by the Central government, one of whom shall be a person who is or has been a Judge of a High Court or has been a Judge of the Supreme Court.

(2) The Tribunal may for the purpose of deciding any matter under this Act choose one or more persons possessing special knowledge of any matter relating to the case under inquiry to assist it in determining any compensation which is to be given under this Act.

(3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

(4) The Tribunal shall by a majority of its number regulate its own procedure and decide any matter within its competence and may review its decision in the event of there being a mistake
on the face of the record or correct any arithmetical or clerical error therein but subject there to the decision of the Tribunal on any matter within its jurisdiction shall be final and shall not be called in question in any court.

27. **Mode of giving compensation**— (1) When the amount of compensation to be given under this Act to an existing air company has been determined under section 25, the Corporation shall give to the company one or more bonds of the face value of the amount of compensation so determined less such portion there of as is payable in cash under this section.

(2) Out of the compensation to be given to each of the existing air companies under this Act, there shall be paid in cash—

(a) ten per cent. of the amount of compensation payable to each of such companies (Which percentage shall be uniformly applicable to all existing air companies); or

(b) the amount borrowed by any such company from any bank and outstanding on the 31st day of December, 1952 or on the appointed date, whichever amount is less; or

(c) an amount equal to the cash of any such company, including cash in deposit with a bank, which has vested in the Corporation under this Act;

whichever of the amount specified in clauses (a), (b) and (c) is the greatest.

(3) The bonds aforesaid shall be issued by the Corporation with the previous approval of the Central Government and shall be negotiable and shall be redeemed at their face value by the Corporation concerned on the demand of the holder within one hundred and eighty days after the expiry of five years from the date of their issue and the redemption of the bonds and payment of all interest there on shall be guaranteed by the Central Government.

(4) If within the expiry of the said period of one hundred and eighty days, the holder of any bond fails to require payment of its face value from the Corporation concerned, the bond shall cease to the redeemable at the option of the holder:

Provided that in any case the Corporation may by notice require the holder of the bond to accept its face value in cash at any time whether before or after the expiry of the period of five years aforementioned.

(5) The holder of the bond shall be entitled to receive from the Corporation interest on the bond at three-and-a-half per cent per annum at such intervals as may be prescribed, with effect from the appointed date and until the bond is duly redeemed.

(6) Bonds issued under this section shall, for the purpose of redemption and of computing interest, be deemed to have been issued on the appointed date.

[7] Any bond issued under the provisions of this section shall be deemed to be a security in which a trustee may invest trust monies within the meaning of section 20 of the Indian Trusts Act, 1882.

28. **Winding up of existing company whose undertaking has been acquired**— (1) The Central Government may, on the application of any existing air company or on the application of a majority in number representing three-fourths in value of its members holding ordinary shares, by order in writing, authorise the existing air company the undertaking of which has vested in either of the Corporations to be wound up voluntarily in accordance with the provisions of the Indian Companies Act, 1913 relating to voluntary winding up:

Provided that—

(a) the winding up of the company shall commence on the day on which the Central
Government authorises the winding up without the passing by the company of any special or other resolution for winding up; and

(b) the directors of the existing company shall not be under an obligation to make any such statutory declaration as is required by section 207 of the Indian Companies Act, 1913 and

(c) the winding up of the company shall be continued by the directors of the existing company in office at the time the Central Government authorises its winding up and they shall be deemed to be joint liquidators for the purpose of the said winding up with power to act by a majority of their number.

(2) For the purposes of winding up the affairs of any existing air company or for any other purpose necessary for enabling it to give effect to the provisions of this Act, the Central Government may, notwithstanding anything contained in this Act, permit the existing air company to occupy, keep in its custody, or utilise, as the case may be, for such period as it may allow any office, books, accounts and other documents and the services of any officers or other employees, which have been transferred to either of the Corporations under this Act, on such terms and conditions as may be agreed between the Corporation in which the undertaking has vested and the existing air company, or failing agreement, as may be determined by the Central Government.

CHAPTER V
AIR TRANSPORT COUNCIL

30. Constitution of Air Transport Council—[(1) The Central Government may, from time to time, by notification in the Official Gazette constitute] an Air Transport Council consisting of a Chairman and such other number of members not exceeding eleven as the Central government may appoint there to:

Provided that amongst the members to be so appointed there shall at least be one person with experience in financial matters and one person who is an employee of either of the Corporations with experience in labour matters.

[(2) If at any time the Central Government is of opinion that the continued existence of an Air Transport Council is not necessary, it may, by notification in the Official Gazette, declare that the Air Transport Council shall be dissolved with effect from such date as may be specified in the notification, and thereupon the Air Transport Council shall be deemed to be dissolved, accordingly.]

[\[a\] Section renumbered as sub-section (1) and in the sub-section so renumbered the words “As soon as may be after the commencement of this Act, the Central Government may cause to be constituted” substituted by the Air Corporations (Amendment) Act, 1962 (17 of 1962), S. 3 (30-3-1962).]

[\[b\] Inserted, ibid, S. 3 (30-3-1962).]

31. Functions of the Air Transport Council. — (1) It shall be the duty of the Air Transport Council to consider—
32. **Staff of the Council**— The council shall have a Secretary and such other employees as the Central Government may appoint, and the expenditure on the staff and other charges of the Council shall be borne by the Central Government.


   (2) No proceedings of the Council shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Council.

**CHAPTER VI
CONTROL OF CENTRAL GOVERNMENT**

34. **Power of Central Government to give directions.**— (1) The Central Government may give to either of the Corporations directions as to the exercise and performance by the Corporation of its functions, and the Corporation shall be bound to give effect to any such directions.

   (2) The Central Government may, if it is of opinion that it is expedient in the national interest so to do, after consultation with the Corporation concerned, direct either of the Corporations—

   (a) to undertake any air transport service or other activity which the Corporation has power to undertake;

   (b) to discontinue or make any change in any scheduled air transport service or other activity which it is operating or carrying on;

   (c) not to undertake any activity which it proposes to do:

   Provided that, if, at the direction of the Central Government, the Corporation establishes, alters or continues to maintain an air transport service or other activity and satisfies the Central Government that during the relevant financial year the Corporation has suffered an over-all loss in respect of the operation of all its air transport services and of all its other activities and also that the service or activity so established, altered or continued to be maintained in compliance with the
directions of the Central Government as aforesaid has been operated at a loss in any financial year, then the Central Government shall reimburse the Corporation to the extent of the loss relatable to the operation of that particular service or activity.

35. Prior approval of Central Government necessary in certain cases.— Neither Corporation shall, without the previous approval of the Central Government—

(a) undertake any capital expenditure for the purchase or acquisition of any immovable property or aircraft or any other thing at a cost exceeding [such amount as the Central Government may, from time to time, by order, fix in this behalf.]

(b) enter into a lease of any immovable property for a period exceeding [ten years] or

(c) in any manner dispose of any property, right or privilege having an original or book value exceeding [such amount as the Central Government may, from time to time, by order, fix in this behalf].

(2) If, during any financial year, either of the Corporations engages or proposes to engage in any air transport service or ancillary activity in addition to those specified in the programme previously submitted under sub-section (1) and a substantial alteration of the financial estimates is likely to be involved thereby, the Corporation shall submit to the Central Government for approval a supplementary programme of such service activity and a supplementary estimate of the expenditure and revenue to be incurred and received by the Corporation in respect thereof during the remainder of that period:

Provided that, to meet any unexpected traffic demand or other special situation either of the Corporation may undertake any additional service or other ancillary activity not specified in the programme submitted under sub-section (1) or sub-section (2) and subsequently submit a report on the matter to the Central Government in the prescribed manner.

(a) Substituted for the words ‘three months’ by the Air Corporations (Amendment) Act, 1962 (17 of 1962), S.4 (30-3-1962).

36. Submission of programme of work for each year.— (1) Each of the corporations shall prepare and submit to the Central Government, not less than [two months] before the commencement of the financial year of the Corporation a statement showing the programme of operation and development of air transport services to be operated by the Corporation and its associates during the forthcoming financial year and its other activities as well as its financial estimate in respect thereof, including any proposed investment of capital and increase in the strength of its total staff.

(2) If, during any financial year, either of the Corporations engages or proposes to engage in any air transport service or ancillary activity in addition to those specified in the programme previously submitted under sub-section (1) and a substantial alteration of the financial estimates is likely to be involved thereby, the Corporation shall submit to the Central Government for approval a supplementary programme of such service activity and a supplementary estimate of the expenditure and revenue to be incurred and received by the Corporation in respect thereof during the remainder of that period:

Provided that, to meet any unexpected traffic demand or other special situation either of the Corporation may undertake any additional service or other ancillary activity not specified in the programme submitted under sub-section (1) or sub-section (2) and subsequently submit a report on the matter to the Central Government in the prescribed manner.

(a) Substituted for the words ‘three months’ by the Air Corporations (Amendment) Act, 1962 (17 of 1962), S.4 (30-3-1962).

37. Submission of Annual Report to Parliament.— (1) Each of the Corporations shall, as soon as may be after the end financial year, prepare and submit to the Central Government, in such form as may be prescribed a report giving an account of its activities during the previous financial year, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Corporation during the next financial year.

(2) The Central Government shall cause every report to be laid before both Houses of Parliament as soon as may be after it is submitted.
CHAPTER VII
MISCELLANEOUS

38. Corporations to act in mutual consultation.— It shall be the duty of each of the Corporations to enter into consultations with the other in matters of common interest to the two Corporations including, in particular, the operation of scheduled air transport services, the routes on which such services should be operated by each of the Corporations, the frequency of such services, the passenger fares and freight rates to be charged, the measures of economy to be adopted, the provision of any services in regard to over-haul and maintenance of aircraft or any other matter falling within the scope of the functions of either of the Corporations, and, generally, in regard to ensuring the fullest co-operation and co-ordination in respect of all such matters.

39. Transfer of scheduled air transport services or assets from one Corporation to the other— The Central Government may, for the purpose of improving the air transport services provided by either of the Corporations or for effecting better co-ordination in respect of such services, direct that with effect from such date as may be specified in the direction and subject to such conditions as may be similarly specified,—

(a) any scheduled air transport service operated by one Corporation shall no longer be operated by that Corporation but shall be operated by the other Corporation, and

(b) any property belonging to one Corporation shall be transferred to the other Corporation.

40. Corporation may delegate their powers— (1) Each of the Corporations may appoint a Committee or Committees consisting of some or any of its directors with or without the addition of any officer or employee of the Corporation and delegate any of the functions and powers of the Corporation to such Committee or Committees and may limit the exercise of such delegated authority to any specified area.

(2) Either of the Corporations may, in relation to any particular matter or class of matters or to any particular area, by general or special order, direct that any of its officers or other employees may also exercise all or any of its powers under this Act (except the powers given to it by this section) to the extent to which the Corporation deems it necessary for the efficient running of its day to day administration.


41. Advisory and Labour Relations Committees— Each of the Corporations shall constitute in the prescribed manner a Labour Relations Committee consisting of representatives of the Corporation and of its employees, so however, that the number of representatives of the employees on the Committee shall not be less than the number of representatives of the Corporation, and it shall be the duty of Labour Relations Committee to advise the Corporation on matters which relate to the welfare of the employees or which are likely to promote and secure amity and good relations between the two.

[1] Sub-section ”(1)” and the brackets and figure ”(2)” omitted by the Air Corporations (Amendment) Act (49 of 1971), S. 10(1-2-1972).

42. Meetings of the Corporation.— (1) Meetings of the Corporation shall be held at such times and places and, subject to sub-sections (2) and (3), the proceedings of the Corporation shall be conducted in such manner as may be provided by the regulations.

(2) The Chairman or in his absence any person chosen by the directors present from amongst themselves shall preside at the meeting.
(3) At a meeting of the Corporation all questions shall be decided by a majority votes of the "[directors] present, and for this purpose, each "[director] shall have one vote and in the case of equality of votes the Chairman or; in his absence, the person presiding at the meeting shall have a second or casting vote.

[a] Substituted for the word “members” in Cls. (2) and (3) and “members” in Cl. (3) by the Air Corporations (Amendment) Act 49 of 1971, S. ll (1-2-1972).

43. Penalty for wrongful withholding of property— If a director, managing agent, manager or other officer or employee of an existing air company who wilfully withholds or fails to deliver to the Corporation as required by sub-section (2) of section 21 any books, documents or papers which may be in his possession or who wrongfully obtains possession of any property of any such company which has vested in either of the Corporations under this Act or having any such property in his possession wrongfully withholds it from the Corporation or wilfully applies it to purposes other than those expressed in, or authorised by, this Act shall on the complaint of the Corporation concerned, be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied or in default to suffer imprisonment which may extend to one year.

44. Power to make rules— The Central Government may, by notification in the official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of service of the "[managing directors] of the two Corporations; and such other categories of officers as may be specified from time to time under sub-section (1) of section 8;

(b) the form in which the budget of the two Corporations shall be prepared and submitted to the Central Government; and the form and the manner in which the accounts of the two Corporations shall be maintained and in which any returns or statistics shall be furnished or submitted;

(c) the reports which should be submitted by the Corporations and the intervals within which they should be so submitted;

(d) the maintenance of books of accounts;

(e) the establishment and maintenance of a fund by each of the Corporations for meeting any liability arising out of any act or omission in respect of which the Corporation may incur any liability to any third party;

(f) the provision of reserve and other funds;

(g) the prohibition of persons who are directly or indirectly interested in any subsisting contract with either of the Corporations from becoming or being employees of the Corporation;

(h) the powers which may be exercised by either of the Corporations to facilitate the acquisition of any undertaking;

(i) the issue of bonds by either of the Corporations to meet any compensation payable by it under this Act;

(j) the training of the employees of either of the Corporations or other persons and fees which may in its discretion be charged therefor;
(k) the term of office and other conditions of service of members of the Air Transport Council constituted under section 30;

(l) the prohibition of any interference with any air transport services or with any property of the Corporation or of any interference with or obstruction of any officer or employee of the Corporation in the performance of his duty;

(m) the punishment which shall not exceed imprisonment for three months or fine of rupees one thousand but which may consist of both such imprisonment and fine, in respect of any contravention of the provisions of any rules made under this section.

[(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions] both Houses agree in making any modification in the rule or both Houses agree that the rule should not made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

(a) Substituted for the words “General Managers” by the Air Corporations (Amendment) Act (49 of 1971), S. 12(1-2-1972).

(b) Word “depreciation” omitted, Ibid.

(c) Substituted for the original by the Air Corporations (Amendment) Act, 1962 (17 of 1962), S. 5 (30-3-1962).

(d) Substituted for the words “two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following” by the Air Corporation (Amendment) Act (24 of 1982), S.3 (21-5-1982)

45. Power of Corporations to make regulations— (1) a [Subject to the provisions of sub-section (3), each of the Corporations may] by notification in the Official Gazette, make regulations not inconsistent with this Act or the rules made thereunder for the administration of the affairs of the Corporation and for carrying out its functions.

(2) In particular and without prejudice to the generality of the foregoing power, any such regulations b may provide for all or any of the following matters, namely:—

(a) the time and place of the meetings of the Corporation and the procedure to be followed for the transaction of business at such meetings;

(b) the terms and conditions of service of officers and other employees of the Corporation other than the managing director and officers of any other categories referred to in section 44;

(c) the issue of passes by the Corporation to its officers and other employees either free of cost or at concessional rates for travel on its air services and the conditions relating thereto;

(d) the authentication of orders and decisions of the Corporation and the instruments executed by, it;

d[e] (e) the grant of refund in respect of any unused tickets and the issue of passes free of cost or at concessional rates;]

(f) the period after the expiry of which unclaimed goods may be disposed of and the manner of their disposal;

(g) the conditions governing the carriage of persons or goods on its services.

d[(3) No regulation under clause (b) of sub-section (2) shall be made except with the previous approval of the Central Government.]
(4) Every regulation made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

(a) Substituted by the Air Corporations (Amendment) Act 49 of 1971, S.13(1-2-1972).

(b) For some such Regulations, see S. R. O. 2462 to 2464 in Gaz. Ind., Extra., 29-7-1954, Pt. II, Section 3, pages 1169 to 1171; for International Carriage of Cargo (other than Baggage and Mail) Regulations, 1973 and International Carriages (Passenger and Baggage) Regulations, 1973, see Gaz. of India, 1973, Pt. II, Section 4, pp. 1674-1675; (these Regulations supersede Indian Airlines (Conditions of Carriage) Regulations, 1967).

(c) Substituted for the words “General Manager” by the Air Corporations (Amendment) Act (49 of 1971) Section 13(1-2-1972).

(d) Substituted for the original clause (e) by the Air Corporations (Amendment) Act 1962 (17 of 1962). S.6(30-3-1962).

(e) Inserted by the Air Corporations (Amendment) Act (49 of 1971), S.13(1-2-1972).

(f) Inserted by the Air Corporations (Amendment) Act (24 of 1982), S.4(21-5-1982).

THE SCHEDULE

(See section 25)

PRINCIPLES FOR DETERMINING COMPENSATION UNDER THIS ACT

Paragraph I. - The compensation which shall be given by Indian Airlines or Air India International, as the case may be, to any existing air company in respect of the vesting, in accordance with the provisions of this Act, of the undertaking of such company in that Corporation shall be the sum of the amount computed in accordance with the provisions of paragraph II, less the sum of the amounts computed in accordance with the provisions of paragraph III.

Paragraph II. — The aggregate written down value of all airframes of aircraft in respect of which there are certificates of airworthiness in force or, which can be rendered fit for certificates of airworthiness if the Corporation concerned were to incur expenditure within the normal rates for rendering the airframes airworthy, plus-

A sum of Rs. 12,000 in respect of each airframe of a Dakota aircraft and a sum Rs. 24,000 in respect of each airframe of a Viking aircraft in any case where the existing air company had obtained a certificate of airworthiness in respect of it within ninety days immediately proceeding the appointed date or if a certificate of airworthiness had not actually been obtained within that period but the existing air company had incurred expenditure within that period for the purpose of rendering that airframe airworthy, the value, of the spare parts used for the purpose subject to a maximum of Rs. 12,000 in case of each airframe of a Dakota aircraft and Rs. 24,000 in the case of each airframe of a Viking aircraft.

NOTE.- In this Schedule, the expression “airframe” includes also the equipment of the aircraft, whether fixed or removable;

(b) the aggregate written down value of all such power plants, aeroengines, air screws, spare aeroengines and spare air screws (all of which are in this Schedule collectively referred to as power plants) as are suitable for use in the airframes mentioned in sub-clause (a) and as are of an approved standard or can be rendered fit to be of an approved standard if the Corporation concerned were to incur
expenditure within the normal rates for such purposes, plus the following, namely:-

(i) a sum of Rs. 6,000 in respect of each engine of a Dakota aircraft and a sum of Rs. 12,000 in respect of each engine of a Viking aircraft in any case where the existing air company had made it an approved engine within a period of ninety days immediately proceeding the appointed date or if the engine had not been made completely fit to be an approved engine within that period but the existing air company had incurred expenditure within the said period for the purpose of making that engine an approved engine, then, the value of the spare parts used for that purpose subject to a maximum of Rs. 6,000 in the case of each engine of a Dakota aircraft and Rs. 12,000 in the case of each engine of a Viking aircraft; and

(ii) a sum of Rs. 2,000 in respect of the air screws and accessories of the power plant of a Dakota aircraft and a sum of Rs. 4,000 in respect of the air screws and accessories of the power plant of a Viking aircraft in any case where the air screws and accessories had been rendered completely fit for the approved standard within a period of ninety days immediately preceding the appointed date or if the same had not been rendered completely fit for that standard within that period but the existing air company had incurred expenditure within that period for the purpose of rendering the same fit for the approved standard, then the value of the spare parts used for that purpose subject to a maximum of Rs. 2,000 in the case of air screws and accessories of a Dakota aircraft and Rs. 4,000 in the case of air screws and accessories of a Viking aircraft.

NOTE.- In this Schedule, the expression” approved standard” means such condition of efficiency of the power plant as satisfies the requirements laid down in Section E of Schedule III to the Indian Aircraft Rules, 1937;

(c) the cost or purchase of all serviceable general stores and all such other serviceable stores and spares parts (all of which are in this Schedule collectively referred to as stores and spare parts) belonging to the existing air company as are suitable for use in respect of the aircraft or power plants referred to in sub-clauses (a) and (b), reduced in each case by 20 per cent, of such case of purchase:

Provided that the reduction shall be 10 per cent, in the case of stores and spare parts pertaining to Constellation and Skymaster aircraft.

NOTE- In this Schedule-

(a) stores shall be deemed to be serviceable if they are such as to satisfy the requirements laid down in Section E of Schedule III to the Indian Aircraft Rules, 1937;

(b) without prejudice to the clause immediately proceeding stores (other than general stores) and spare parts shall also be deemed to be serviceable if by incurring expenditure of an amount not exceeding half the costs of purchase of such stores and spare parts, they can be rendered suitable for use in respect of the aircraft or power plants;

(d) the aggregate actual cost to the existing air company of all lands other than lease-holds;

(e) the total amount of the premiums paid by the company in respect of all lease-holds reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term on the appointed date of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(f) the scrap value of all such aircraft, power plants, propellers and the accessories, spare parts and stores, not falling within any of the preceding sub-clauses and all properties as have become obsolete on the appointed date, the scrap value for the purposes of this Act being
one per cent of the book value of the relevant item of property;

(g) the price paid by the existing air company for any trustee security held by it;

(h) the value of any shares held by any existing air company in any other existing air company the value being calculated on the basis of the valuation of the air transport undertaking of that other company in accordance with the provisions of this Schedule;

(i) the market value on the appointed date or the purchase price, whichever is less, of any other investments held by any existing air company in any concern other than another existing air company which subject to the provisions of Section 22, have vested in the Corporation;

(j) the amount of cash held by any existing air company on the appointed date whether in deposit with a bank or otherwise;

(k) the amount of debts other than bad debts due to any existing air company, to the extent to which they are reasonable considered to be recoverable, less the amount of the debts, if any, excluded from the transfer to the Corporation concerned under the provisions of Section 22;

(l) the aggregate cost of all licence fees paid by the company under clause (c) of sub-rule (1) of Rule 154 of the Indian Aircraft, 1937, in respect of the licences granted to it for the operation of any scheduled air transport services and held by it on the appointed date and which but for the provisions of section 19 would continue to remain valid plus a sum of Rs. 100 for each such licence; provided that the fees paid for each such licence shall be reduced by an amount which bears to such fees the same proportion as the period of the licence which shall have expired on the appointed date bears to the total period of the licence;

(m) the aggregate written down value of all tangible assets other than those falling within the preceding clauses;

(n) an aggregate amount not exceeding ten thousand rupees as may be agreed upon between the Corporation and the existing air company concerned or, failing agreement, which may be assessed by the Tribunal, in respect of all such assets, intangible or otherwise, as do not fall within any of the preceding sub-clauses and in respect of the loss of any future profits which the existing air company might have earned but for the passing of this Act:

Provided that in assessing any amount under this clause regard shall be had to the following circumstances, namely:-

(i) the profits, if any, earned by it annually during the six years immediately proceeding the appointed date on which income-tax has been paid,

(ii) the subsidies, if any, given to that company by the Central Government during such period, and

(iii) the probability or otherwise of the company earning future profits if it were allowed to continue its scheduled air transport services for the remaining period of the licence held by it after having due regard to the fact that the licence held by it did not confer any monopoly upon it in respect of the routes concerned and the fact that no subsidy would have been payable by the Central Government after the 31st day of December, 1952.

Explanation A.— For the purpose of this Schedule, the written down value in respect of each class of assets means the actual cost to the existing air company of such assets respectively, less the total depreciation calculated at the rates and in manner following, namely:-
(i) in respect of each airframe, depreciation shall be calculated at 15 percent per annum for constellation and Skymaster aircraft and 18 percent per annum for other aircraft from the date on which the aircraft concerned was first used in revenue operations by the company till the 31st day of December, 1952, the rates being applied as follows:-

for the first year, on the actual cost of acquisition;

for the second year, on an amount obtained by reducing from the actual cost of acquisition the amount of depreciation calculated as aforesaid for the first year;

for the third year on an amount obtained by reducing from the actual cost of acquisition the aggregate amount of depreciation calculated as aforesaid for the preceding two years;

and so on;

(ii) in respect of power plants, the depreciation shall be calculated at 20 per cent. per annum for Constellation and Skymaster aircraft and at 24 per cent. per annum for other aircraft from the date on which the power plant concerned was first used in revenue operations by the company till the 31st day of December, 1952, the rates being applied as follows:-

for the first year, on the actual cost of acquisition;

for the second year, on an amount obtained by reducing from the actual cost of acquisition the amount of depreciation calculated as aforesaid for the first year;

for the third year on an amount obtained by reducing from the actual cost of acquisition the aggregate amount of depreciation calculated as aforesaid for the preceding two years;

and so on;

(iii) in respect of all tangible assets falling within clause (m) of paragraph II, depreciation shall be calculated at the normal annual rates for which provision is made in the Indian Income-tax Act, 1922, and in the manner provided therein, but excluding initial or other special depreciation, from the date such assets were acquired or created by the existing air company until the 31st day of December, 1952:

Provided that in respect of any such asset for which no provision has been made in the Indian Income-tax Act, 1922, the rate of depreciation shall be 10 per cent, per annum:

Provided further that in respect of any such asset situate on the leasehold land other than land rented from Government, the depreciation shall be either -

(a) as provided in the proceeding provisions of this clause, or

(b) equivalent to an amount which bears the same ratio to the total cost of acquisition or creation of the asset (situate on leasehold land) as the expired portion of the lease on the appointed date bears to the total period of the lease currently running,

whichever is greater.

Explanation B.— For the purpose of this Schedule, the actual cost shall include, in the case of airframes, in addition to the cost of purchase or acquisition-

(i) the actual expenditure, if any, incurred by the existing air company for
reconversion or reconstruction of the airframe in order to render it fit for civil air transport before it was first used in revenue operations by the company, plus,

(ii) the actual expenditure incurred in making the airframes airworthy before its first use in revenue operations.

Explanation C.— In the case of power plants, the actual cost shall include, in addition to the cost of purchase or acquisition, the cost incurred by the company for conversion or reconditioning, repairing or overhauling the power plant, in order to render its fit for the purposes of a certificate under paragraph 4 of section E of Schedule III to the Indian Aircraft Rules, 1937, before the date of its first use in revenue operations.

Paragraph III.— Subject to the provisions of sections 22 and 23, all such liabilities as have been declared by the existing air company under the provisions of section 22:

Provided that if any liability so declared has been understated, the Corporation may recover the additional amount from the company.
CHAPTER II

THE AIR CORPORATIONS (TRANSFER OF UNDERTAKINGS AND REPEAL) ORDINANCE, 1994

(4 OF 1994)
CHAPTER II


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CHAPTER II


(4 OF 1994)

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An ordinance to provide for the transfer and vesting of the undertakings of Indian Airlines and Air India respectively to and in the companies formed and registered as Indian Airlines Limited and Air India Limited and for matters connected therewith or incidental thereto and also to repeal the Air Corporations Act, 1953.

Whereas the Air Corporations (Transfer of Undertakings and Repeal) Bill, 1992 has been introduced in Parliament but has not yet been passed;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give effect to the provisions of the Bill;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution the President is pleased to promulgate the following Ordinance :—

1. Short title and commencement — (1) This Ordinance may be called the Air Corporations (Transfer of Undertakings and Repeal) Ordinance, 1994.

(2) It shall come into force at once.

2. Definitions — In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) "company" means "Indian Airlines Limited" or 'Air India Limited" formed and registered under the Companies Act, 1956;

(c) "corporations" means "Indian Airlines" and "Air India" established under section 3 of the Air Corporations Act, 1953 (hereinafter referred to as the principal Act) ; and "corporation" means either of the corporations;

3. Undertakings of corporations to vest in companies— On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in, —

(a) Indian Airlines Limited, the undertaking of Indian Airlines; and

(b) Air India Limited, the undertaking of Air India.

4. General effect of vesting undertakings in the companies — (1) The undertaking of a corporation which is transferred to, and which vests in, a company under section 3 shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, real or personal, corporeal or incorporeal, in possession reservation, present or contingent, of whatever nature and wheresoever situate, including lands,
works, workshops, aircrafts, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of that corporation in relation to its undertaking, whether within or outside India, all books of accounts and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of that corporation in relation to its undertaking.

(2) All contracts and working arrangements subsisting immediately before the appointed day and affecting a corporation shall in so far as they relate to the undertaking of that corporation cease to have effect or to be enforceable against that corporation and shall be of as full force and effect against or in favour of the company in which the undertaking has vested by virtue of this Ordinance and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the appointed day by or against a corporation in relation to its undertaking may, as from that day, be continued and enforced by or against the company in which it has vested by virtue of this Ordinance and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

5. Licences etc. deemed to have been granted to companies — With effect from the appointed day, all licences, permits, quotas and exemptions; granted to a corporation in connection with the affairs and business of that corporation under any law for the time being in force shall be deemed to have been granted to the company in which the undertaking of that corporation has vested.

6. Tax exemption or benefit to continue to have effect — (1) Where any exemption from, or any assessment with respect to, or any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to a corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the company in which the undertaking of that corporation has vested.

(2) Where any payment made by a corporation is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the Act made applicable to the corporation were operative in relation to the company in which the undertaking of that corporation has been vested.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

7. Guarantee to be operative — Any guarantee given for or in favour of a corporation with respect to any loan or lease finance shall continue to be operative in relation to the company in which the undertaking of that corporation has vested by virtue of this Ordinance.

8. Provisions in respect of officers and other employees of corporations — (1) Every officer or other employee of a corporation (except a Director of the Board, Chairman, Managing Director or any other person entitled
to manage the whole or a substantial part of the business and affairs of the corporation) serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in a company by virtue of this Ordinance become, as from the appointed day an officer or other employee, as the case may be, of the company in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under that corporation if its undertaking had not vested in the company and shall continue to do so as an officer or other employee, as the case may be, of the company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to be the officer or other employee of the company within such period.

(2) Where an officer or other employee of a corporation opts under sub-section (1) not to be in the employment or service of the company in which the undertaking of that corporation has vested, such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of a corporation to a company shall not entitle such officer or other employee to any compensation under the said Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) The officers and other employees who have retired before the appointed day from the service of a corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the company in which the undertaking of that corporation has vested.

(5) The trusts of the Provident Fund or Pilots Group Insurance and Superannuation Scheme of the corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the company as was being done hitherto in the corporation. Tax exemption granted to provident Fund or Pilots Group Insurance and Superannuation Scheme would continue to be applied to the company.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of a corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of that corporation shall be entitled to any compensation against that corporation or against the company, as the case may be, for the loss of office or for the premature termination of any contract of management entered into by him with that corporation.

9. Power of Central Government to give directions— The Central Government may give to a company directions as to the exercise and performance by that company of its functions and that company shall be bound to give effect to any such directions.

10. Power to remove difficulties — (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may by order published in the Official Gazette, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made
after the expiry of a period of two years from the coming into force of this Ordinance.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

11. Repeal of Act 27 of 1953 and corporations to cease to exist — (1) On the appointed day, the Air Corporations Act 1953 shall stand repealed.

(2) The corporations shall, with the repeal of the Air Corporations Act, 1953, cease to exist.
CHAPTER III


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CHAPTER III


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An Act to provide for the transfer and vesting of the undertakings of Indian Airlines and Air India respectively to and in the companies formed and registered as Indian Airlines Limited and Air India Limited and for matters connected therewith or incidental thereto and also to repeal the Air Corporations Act, 1953.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. Short title and commencement — (1) This Act may be called the Air Corporations (Transfer of Undertakings and Repeal) Act, 1994.

(2) It shall be deemed to have come into force on the 29th day of January, 1994.

2. Definitions — In this Act, unless the context otherwise requires,—

(a) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint under section 3;

(b) “company” means “Indian Airlines Limited” or “Air India Limited” formed and registered under the Companies Act, 1956;

(c) “corporations” means “Indian Airlines” and “Air India” established under section 3 of the Air Corporations Act, 1953 and “corporation” means either of the corporations.

3. Undertakings of corporations to vest in companies — On such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be transferred to, and vest in, —

(a) Indian Airlines Limited, the undertaking of Indian Airlines; and

(b) Air India Limited, the undertaking of Air India.

4. General effect of vesting of undertakings in the companies — (1) The undertaking of a corporation which is transferred to, and which vests in a company under section 3 shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, moveable and immovable, real or personal, corporeal or incorporeal, in possession or reservation, present or contingent, of whatever nature and wheresoever situate, including lands, works, workshops, aircraft, cash balances, capital reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of that corporation in relation to its undertaking, whether within or outside India, all books of account and documents relating
thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of that corporation in relation to its undertaking.

(2) All contracts and working arrangements subsisting immediately before the appointed day and affecting a corporation shall, in so far as they relate to the undertaking, of that corporation, cease to have effect or to be enforceable against that corporation and shall be of as full force and effect against or in favour of the company in which the undertaking has vested by virtue of this Act and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the appointed day by or against a corporation in relation to its undertaking may, as from that day, be continued and enforced by or against the company in which it has vested by virtue of this Act and enforceable as fully and effectually as if, instead of the corporation, the company had been named therein or had been a party thereto.

5. Licences, etc., to be deemed to have been granted to companies — With effect from the appointed day, all licences, permits, quotas and exemptions granted to a corporation in connection with the affairs and business of that corporation under any law for the time being in force, shall be deemed to have been granted to the company in which the undertaking has vested by virtue of this Act.

6. Tax exemption or benefit to continue to have effect — (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to a corporation under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the company in which the undertaking of that corporation has vested.

(2) Where any payment made by a corporation is exempt from deduction of the tax at source under any provision of the Income-tax Act 1961, the exemption from tax will continue to be available as if the provisions of the Act made applicable to the corporation were operative in relation to the company in which the undertaking of that corporation has been vested.

(3) The transfer and vesting of the undertaking or any part thereof in terms of section 3 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

7. Guarantee to be operative — Any guarantee given for or in favour of a corporation with respect to any loan or lease finance shall continue to be operative in relation to the company in which the undertaking of that corporation has vested by virtue of this Act.

8. Provisions in respect of officers and other employees of corporations — (1) Every officer or other employee of a corporation (except a Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of the corporation) serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in a company by virtue of this Act, become, as from the appointed day an officer or other employee, as the case may be, of the company in which the undertaking has vested and shall hold his office or service therein by the same tenure, at the same remuneration upon the same terms and
conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under that corporation if its undertaking had not vested in the company and shall continue to do so as an officer or other employee, as the case may be, of the company or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to be the officer or other employee of the company within such period.

(2) Where an officer or other employee of a corporation opts under sub-section (1) not to be in the employment or service of the company in which the undertaking of that corporation has vested, such officer or other employee shall be deemed to have resigned.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer of other employee of a corporation to a company shall not entitle such officer or other employee to any compensation under the said Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) The officers and other employees who have retired before the appointed day from the service of a corporation and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the company in which the undertaking of that corporation has vested.

(5) The trusts of the Provident Fund or Pilots Group Insurance and Superannuation Scheme of the corporation and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the company as was being done hitherto in the corporation. Tax exemption granted to Provident Fund or Pilots Group Insurance and Superannuation Scheme would continue to be applied to the company.

(6) Notwithstanding anything contained in this Ordinance or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of a corporation, no Director of the Board, Chairman, Managing Director or any other person entitled to manage the whole or a substantial part of the business and affairs of that corporation shall be entitled to any compensation against that corporation or against the company, as the case may be, for the loss of office or for the premature termination of any contract of management entered into by him with that corporation.

9. **Power of Central Government to give directions**— The Central Government may give to a company directions as to the exercise and performance by that company of its functions, and that company shall be bound to give effect to any such directions.

10. **Power to remove difficulties**— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may by order published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty

Provided that no such order shall be made after the expiry of a period of two years from the coming into force of this Act.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.
11. **Repeal of Act 27 of 1953 and cesser of corporations**— (1) On the appointed day, the Air Corporations Act, 1953 shall stand repealed.

(2) The corporation shall, with the repeal of the Air Corporations Act, 1953, cease to exist.

12. **Repeal and Saving** — (1) The Air Corporations (transfer of Undertakings and Repeal) Ordinance, 1994 is hereby repealed.

(2) Notwithstanding such repeal of the Air Corporations (Transfer of Undertakings and Repeal) Ordinance, 1994, anything done or any action taken under the said ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.
CHAPTER IV

THE INTERNATIONAL AIRPORTS AUTHORITY ACT, 1971

(43 OF 1971)
CHAPTER IV

THE INTERNATIONAL AIRPORTS AUTHORITY ACT, 1971

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CHAPTER IV

THE INTERNATIONAL AIRPORTS AUTHORITY ACT 1971

(43 OF 1971)

(December 8, 1971)

An Act to provide for the constitution of an authority for the management of certain aerodromes whereat international air transport services are operated or are intended to be operated and for matters connected therewith.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. Short title, commencement and application — (1) This Act may be called the International Airports Authority Act, 1971.

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

(3) It applies, in the first instance, to the aerodromes of Bombay (Santa Cruz), Calcutta (Dum Dum), Delhi (Palam) and Madras (Meenambakkam) and the Central Government may, by notification in the official Gazette, apply the provision of this Act to any other aerodrome whereat international air transport services are operated or are intended to be operated and with effect from such date as may be specified in the notification.

2. Definitions — In this Act, unless the context otherwise requires,—

(a) “airport” means an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934 and to which this Act applies or is made applicable;

(b) “airstrip” means an area used or intended to be used for the landing and take-off of aircrafts with short take-off and landing characteristics and includes all buildings and structures thereon or appertaining thereto;

(c) “Authority” means the International Airports Authority of India constituted under section 3;

(d) “Chairman” means the Chairman of the Authority;

(e) “heliport” means an area, either at ground level or elevated on a structure, used or intended to be used for the landing and takeoff of helicopters and includes an area for parking helicopters and all buildings and structures thereon or appertaining thereto;

(f) “member” means a member of the Authority and includes the Chairman but for the purposes of sections 4, 5, 6 and 7 does not include the ex-officio member referred to in clause (b) of subsection (3) of section 3;

(g) “prescribed” means prescribed by rules made under this Act; and
(h) “regulations” means regulations made under this Act.

CHAPTER II
THE INTERNATIONAL AIRPORTS AUTHORITY OF INDIA

3. Constitution and incorporation of the Authority — (1) With effect from the commencement of this Act, the Central Government shall constitute an authority to be called the International Airports Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of —

(a) a Chairman to be appointed by the Central Government.

(b) the Director-General of Civil Aviation ex-officio; and

(c) not less than six and not more than thirteen members to be appointed by the Central Government.

(4) The Chairman shall be a whole-time member and the other members referred to in clause (c) of sub-section (3) may be appointed as whole-time or part-time members as the Central Government may think fit.

(5) The names of persons appointed as members shall be notified by the Central Government in the Official Gazette.

(6) During the temporary absence of the Chairman, the Central Government may appoint another member to act as the Chairman.

4. Disqualification for office of member — A person shall be disqualified for being appointed as a member if he —

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent Court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. Terms of office and conditions of service of members — (1) Subject to the provisions of section 6, every member shall hold office for a period of three years from the date on which he assumes office:

Provided that the Central Government may—

(a) terminate the appointment of any whole—time member, who is not a servant of the Government, after giving him notice for a period of not less than three months or in lieu thereof on payment of an amount equal to his salary and allowances, if any, for a period of three months:

(b) terminate the appointment of any part-time member who is not a servant of the Government after giving him notice for such period as may be prescribed; and

(c) terminate at any time the appointment of any member who is a servant of the Government.
(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

(4) A casual vacancy caused by the resignation of a member under sub-section (3) or otherwise may be filled by fresh appointment and the person so appointed shall hold office for the remaining period for which the member in whose place he is appointed would have held office.

6. Vacation of office of member — The Central Government shall remove a member if he —

(a) becomes subject to any of the disqualifications mentioned in section 4:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. Eligibility of member for reappointment — Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment as such.

8. Meetings — (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations.

(2) The Chairman, or, if for any reason he is unable to attend any meeting, any other member chosen by the members present at the meetings, shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

9. Vacancy in the Authority not to invalidate proceedings — No act or proceeding of the Authority shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Authority.

10. Appointment of officers and other employees of the Authority — (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Authority shall, subject to the provisions of section 12 and to such rules as may be prescribed in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officer as may be specified after
consultation with the Chairman in such rules, shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 12, every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remunerations as may be determined by regulations.

11. Authority to act on business principles — In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.

CHAPTER III
PROPERTY AND CONTRACT

12. Transfer of assets and liabilities of Central Government to the Authority — (1) Save as otherwise provided in sub-section (2), as from such date as the Central Government may appoint by notification in the Official Gazette in relation to any airport, —

(a) all properties and other assets vested in the Central Government for the purpose of the airport and administered by the Director- General of Civil Aviation immediately before such day shall vest in the Authority;

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the Central Government immediately before such day for or in connection with the purposes of the airport shall be deemed to have been incurred, entered into and engaged to be done by, with, or for the Authority;

(c) all non-recurring expenditure incurred by the Central Government for or in connection with the purposes of the airport up to such day and declared to be capital expenditure by the Central Government shall, subject to such terms and conditions as may be determined by the Central Government, be treated as the capital provided by the Central Government to the Authority;

(d) all sums of money due to the Central Government in relation to the airport immediately before such day shall be deemed to be due to the Authority;

(e) all suits and other legal proceedings instituted or which could have been instituted by or against the Central Government immediately before such day for any matter in relation to the airport may be continued or instituted by or against the Authority;

(f) every employee holding any office under the Central Government immediately before such day solely or mainly for or in connection with such affairs of the airport as are relevant to the functions of the Authority under this Act shall be treated as on deputation with the Authority but shall hold his office in the Authority by the same tenure and upon the same terms and conditions of service as respects, remuneration, leave, provident fund, retirement or other terminal benefits as he would have held such office, if the Authority had not been constituted and shall continue to do so until the Central Government, either on its own motion or at the request of the Authority, recalls such employee to its service or until the Authority, with the concurrence of the Central Government, duly absorbs such employee in its regular service, whichever is earlier:

Provided that during the period of deputation of any such employee with the Authority, the Authority shall pay to the Central Government, in respect of
every such employee, such contribution towards his leave salary, pension and gratuity as the Central Government may, by order, determine:

Provided further that any such employee, who, has in respect of the proposal of the Authority to absorb him in its regular service, intimated within such time as may be specified in this behalf by the Authority his intention of not becoming a regular employee of the Authority, shall not be absorbed by the Authority in its regular service.

(2) As from the date determined by the Central Government under the proviso to sub-section (2) of section 16, —

(a) the equipment and appliances relating to air navigation services and the buildings used exclusively for such services immediately before such day shall vest in Authority;

(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the Central Government immediately before such day for or in connection with air navigation services shall be deemed to have been incurred, entered into and engaged to be done by, with, or for the Authority;

(c) all sums of money due to the Central Government for or in connection with air navigation services immediately before such day shall be deemed to be due to the Authority;

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Authority;

(e) every employee holding any office under the Central Government immediately before such day solely or mainly for or in connection with air navigation services shall be treated as on deputation with the Authority but shall hold his office in the Authority by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement or other terminal benefits as he would have held such office if the Authority had not been constituted and shall continue to do so until the Central Government, either on its own motion or at the request of the Authority, recalls such employee to its service or until the Authority, with the concurrence of the Central Government, duly absorbs such employee in its regular service, whichever is earlier:

Provided that during the period of deputation of any such employee with the Authority, the Authority shall pay to the Central Government in respect of every such employee, such contribution towards his leave salary, pension and gratuity as the Central Government may, by order determine:

Provided further that any such employee, who has, in respect of the proposal of the Authority to absorb him in its regular service intimated within such time as may be specified in this behalf by the Authority his intention of not becoming a regular employee of the Authority, shall not be absorbed by the Authority in its regular service.

(3) If any dispute or doubt arises as to which of the properties, right or liabilities of the Central Government have been transferred to the Authority or as to which of the employees serving under the Central Government are to be
treated as on deputation with the Authority, under this section such dispute or doubt shall be decided by the Central Government in consultation with the Authority and the decision of the Central Government thereon shall be final.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, (14 of 1947) or in any other law for the time being in force, the absorption of any employee by the Authority in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court tribunal or other authority.

(5) In this section and in section 16, the expression “air navigation services”, in relation to any airport, means air traffic services (including aeronautical and flight information services), aeronautical communication and navigational aids and meteorological services at such airport.

13. Compulsory acquisition of land for the Authority — Any land required by the Authority for discharging its functions under this Act shall be deemed to be needed for public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1894 (1 of 1894) or of any other corresponding law for the time being in force.

14. Contracts by the Authority — Subject to the provisions of section 15, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

15. Mode of executing contracts on behalf of the Authority — (1) Every contract shall, on behalf of the Authority, be made by the Chairman or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or class of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Authority:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be prescribed by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the regulations shall be binding on the Authority.

CHAPTER IV
FUNCTIONS OF THE AUTHORITY

16. Functions of the Authority — (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the Authority to manage the airports efficiently.

(2) It shall be the duty of the Authority to provide at the airports such services and facilities as are necessary or desirable for the efficient operation of air transport services there at:
Provided that the function of providing air navigation services at the airports shall continue to be discharged by the Central Government until such date as that Government may, by order, determine.

(3) Without prejudice to the generality of the provisions contained in sub-section (1) and (2), the Authority may —

(a) plan, develop, construct and maintain runways, taxiways, aprons and terminal and ancillary buildings at the airports;

(b) construct residential buildings and create townships for its employees;

(c) establish and maintain hotels, restaurants and rest—rooms at or near the airports;

(d) establish warehouses at the airports for the storage or processing of goods;

(e) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at the airports;

(f) make appropriate arrangements for watch and ward at the airports;

(g) regulate and control the plying of vehicles, and the entry and exit of passengers and visitors, in the airports with due regard to the protocol functions of the Government of India;

(h) develop and provide consultancy services in India and abroad in relation to planning and development of airports or any facilities thereat;

(i) establish and manage heliports and airstrips;

(j) provide such transport facilities as are, in the opinion of the Authority, necessary to the passengers travelling air;

(k) from one or more companies under the Companies Act, 1956 (1 of 1956) or under any other law relating to companies to further the efficient discharge of the functions imposed on it by this Act; and

(l) take all such steps as may be necessary or convenient for, or may be incidental to the exercise of any power or the discharge of any function conferred or imposed on it by this Act.

(4) In the discharge of its functions under this section, the Authority shall have due regard to the development of air transport service and to the efficiency, economy and safety of such service.

(5) Nothing contained in this section shall be construed as —

(a) imposing an obligation on the Authority to discharge any function or duty under this section with respect to any airport in relation to which a notification has not been issued under sub-section (1) of section 12;

(b) authorising the disregard by the Authority of any law for the time being in force; or

(c) authorising any person to institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not otherwise be subject.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

17. Power of the Authority to charge fees, rent, etc. — The Authority may, —
(i) with the previous approval of the Central Government, charge fees or rent, —

(a) for the landing, housing or parking of aircraft or for any other service or facility offered in connection with aircraft operations, at any airport, heliport or air-strip.

Explanation. — In this sub-clause “aircraft” does not include an aircraft belonging to the Indian Defence Services and “aircraft operations” do not include operations of any aircraft belonging to the said Services;

(b) for the amenities given to the passengers and visitors at any airport, heliport or airstrip;

(c) for the use and enjoyment by persons of facilities and other services provided by the Authority at any airport, heliport or airstrip;

(ii) with due regard to the instructions that the Central Government may give to the Authority, from time to time, charge fees or rent from persons who are given by the Authority any facility for carrying on any trade or business at any airport.

18. Additional capital and grants to the Authority by the Central Government —

The Central Government may, after due appropriation made by Parliament by law in this behalf, —

(a) provided any capital, over and above the capital provided under clause (c) of sub-section (1) of section 12, that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as the Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

19. Fund of the Authority — (1) The Authority shall have its own fund and all receipts of the Authority shall be credited thereto and all payments of the Authority shall be made therefrom.

(2) The Authority shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority and on objects or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All money standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2) shall be deposited in the State Bank of India or in such scheduled bank or banks and subject to such conditions as may from time to time be specified by the Central Government.

Explanation. — In this sub-section “scheduled bank” has the same meaning as in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934).

20. Allocation of surplus funds — (1) The Authority may, from time to time, set apart such amounts as it thinks fit as a reserve fund or funds for the purpose of expanding existing facilities or services or creating new facilities or services at any airport or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement or for meeting expenditure arising from loss or damage from fire, cyclone, air-crash or other
accident or for meeting any liability arising out of any act or omission in the discharge of its functions under this Act:

Provided that without prejudice to the right of the Authority to establish specific reserves for one or more specific purposes, the Authority shall also have the power to establish a general reserve:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

(2) After making provision for such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, (1 of 1956) the Authority shall pay the balance of its annual net profits to the Central Government.

21. Submission of programme of activities and financial estimates — (1) The Authority shall, before the commencement of each financial year, prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof.

(2) The statement prepared under sub-section (1) shall, not less than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(3) The statement and the financial estimates of the Authority may, with the approval of the Central Government, be revised by the Authority.

22. Investment of funds — The Authority may invest its funds (including any reserve fund) in the securities of the Central Government or in such other manner as may be prescribed.

23. Borrowing powers of the Authority — (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise such amounts as it may require for discharging its functions under this Act.

24. Accounts and audit — (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor—General of India and any person appointed by him in connection with the audit of the accounts of the
Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI
MISCELLANEOUS

25. Submission of annual reports to Parliament— (1) The Authority shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be taken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

26. Delegation — The Authority may, by general or special order in writing, delegate to the Chairman or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 37) as its may deem necessary.

27. Authentication of orders and other instruments of the Authority — All orders and decisions of the Authority shall be authenticated by the signature of the Chairman or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by the Authority in this behalf.

28. Officers and employees of the Authority to be public servants — All officers and employees of the authority shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21, of the Indian Penal Code (45 of 1860).

29. Protection of action taken under the Act — No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21, of the Indian Penal Code (45 of 1860).

30. Custody and disposal of lost property— Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control or in any aircraft on any such premises.
31. **Provisions relating to income-tax** —

For the purposes of the Income-tax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Authority shall be deemed to be a company within the meaning of the Income-tax Act, 1961 (43 of 1961) and shall be liable to tax accordingly on its income, profits and gains.

32. **Power of the Authority to undertake certain works** —

The Authority may undertake to carry out on behalf of any person any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the person concerned.

33. **Power of Central Government to temporarily divest the Authority of the management of any airport** —

(1) If at any time the Central Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the management of any airport with effect from such date and to such persons as may be specified in the order and the Authority shall be bound to comply with such direction:

Provided that before an order is made under this sub-section the Authority shall be given a reasonable opportunity of being heard in the matter.

(2) Where the management of any airport is entrusted to any person specified under sub-section (1) (hereafter in this section referred to as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such airport and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the Central Government may give to the authorised person from time to time:

Provided that no such power or function as may be specified by the Central Government by general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the Central Government.

(3) An order made under sub-section (1) shall, unless rescinded, be in operation for a period of six months from the date on which the management of the airport is entrusted to the authorised person:

Provided that the Central Government may extend such period for a further period not exceeding eighteen months.

(4) During the operation of an order made under sub-section (1), it shall be competent for the Central Government to issue, from time to time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the airport, the management of which has been entrusted to him and in particular to transfer any sum of money from the fund of the Authority to the authorised person for the management of the airport of the airport and every such direction shall be complied with by the Authority.

(5) On the cessor of operation of any order made under sub-section (1) in relation to any airport, the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such airport and the Authority shall continue to exercise and perform such powers and functions in accordance with the provisions of this Act.

(6) On the cessor of operation of any order made under sub-section (1) in relation to any airport, the authorised person shall hand over to the Authority any property (including any sum of money or other asset)
remaining with him in connection with the management of such airport.

(7) Anything done or any action taken lawfully by the authorised person in relation to any airport during the period of operation of an order made under sub-section (1) shall be deemed to have been done or taken by the Authority and shall be binding on the Authority.

34. Power of Central Government to supersede the Authority — (1) If at any time, the Central Government is of opinion —

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default the financial position of the Authority or the administration of any airport has deteriorated; or

(c) that circumstances exit which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding, vacate their officers as such;

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall, until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case any persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.
35. **Power of Central Government to issue directions** — (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

36. **Power of Central Government to make rules**— (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the conditions of service of the Chairman and other members under section 5 including the salaries payable to the Chairman and to the members who are required to render whole-time service and the fees and allowances payable to the members who are required to render part-time service;

(b) the period of notice required to terminate the appointment of any member, who is required to render part-time service and who is not a servant of the Government, under section 5, and the period of notice that may be given to the Central Government by a member before he resigns his office, under that section;

(c) the conditions and limitations subject to which the Authority may appoint officers and other employees under sub-section (1) of section 10;

(d) the terms and conditions subject to which the non-recurring expenditure incurred by the Central Government for or in connection with the purposes of any airport shall be treated as the capital provided by the Central Government to the Authority under clause (c) of sub-section (1) of section 12;

(e) the manner in which the Authority may invest its funds under section 22;

(f) the form in which the Authority shall prepare the annual statement of accounts including the profit and loss account and the balance-sheet under section 24; and

(g) any other matter which is to be or may be prescribed.

(2A) The power to make rules conferred by clauses (a) and (c) of sub-section (2) shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to such rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interest of any person to whom such rule may be applicable.

[Inserted by s. 2 of Act 72 of 1985]

(3) Every rule made under this sections shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following in which it is so laid or the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified...
form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

[Substituted by s.2 of Act 72 of 1985]

37. Power of the Authority to make regulations — (1) The Authority may make regulations not inconsistent with this Act and the rules made there-under to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

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

(a) the times and places of the meeting of the Authority and the procedure to be followed for the transaction of business at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees appointed by the authority;

(c) the contracts or class of contracts which are to be sealed with the common seal of the Authority and the form and manner in which a contract may be made by the Authority;

(d) the storage or processing of goods in any warehouse established by the authority under clause (d) of sub-section (3) of section (16) and the charging of fees for such storage or processing;

(e) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the person entitled thereto, under section 30;

(f) the disposal of any lost property in cases where such property is not restored under section 30;

(g) securing the safety of aircraft, vehicles and persons using the airport and preventing danger to the public arising from the use and operations of aircraft in the airport;

(h) preventing obstruction within the airport for its normal functioning;

(i) prohibiting the parking or waiting of any vehicle or carriage within the airport except at places specified by the Authority;

(j) prohibiting or restricting access to any part of the airport;

(k) preserving order within the airport and preventing damage to property therein;

(l) regulating or restricting advertising within the airport;

(m) requiring any person, if so directed by an officer appointed by the Authority in this behalf, to leave the airport or any particular part of the airport; and

(n) generally for the efficient and proper management of the airport.

(3) The power to make regulations conferred by clause (b) of sub-section (2) shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to such regulations or any of them but no retrospective effect shall be given to any regulation so as to prejudicially affect the interest of any person to whom such regulation may be applicable.

[Inserted by s.2 of Act 72 of 1985]
(4) The Central Government shall cause every regulation made under this section to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

[Inserted by s.2 of Act 72 of 1985]

38. Supplemental provisions respecting regulations — (1) Any regulation which may be made by the Authority under this Act may be made by the Central Government by notification in the official Gazette within one year of the constitution of the Authority and any regulation so made may be altered or rescinded by the Authority by means of a regulation made by it under this Act.

(2) No regulation made by the Authority under this Act shall have effect until it has been approved by the Central Government and published in Official Gazette.

39. Penalty for breach of certain regulations — Any regulation made under any of the clauses (g) to (m) inclusive of sub-section (2) of section 37 may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention.

40. Power to remove difficulties — (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

41. Amendment of Act 22 of 1934 — In sub-section (2) of section 5 of the Aircraft Act, 1934, for clause (b), the following clause shall be substituted, namely:

“(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 International Airports Authority Act, 1971 does not apply or is not made applicable:

Provided that until the date determined by the Central Government under the proviso to sub section (2) of section 16 of the International Airports Authority Act, 1971 any rule made under this clause may provide for the charging of fees for providing air traffic services (including aeronautical and flight information services), aeronautical communication and navigational aids and meteorological services at any aerodrome to which the said Act applies or is made applicable; “.
CHAPTER V

THE NATIONAL AIRPORTS AUTHORITY ACT, 1985

(64 OF 1985)
## CHAPTER V

**THE NATIONAL AIRPORTS AUTHORITY ACT, 1985**

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A bill to provide for the establishment of an Authority for the management of aerodromes and civil enclaves whereat domestic air transport services are operated or are intended to be operated and of all communication stations and for matters connected therewith:

Be it enacted by Parliament in the Thirty-sixth year of the Republic of India as follows:

CHAPTER I
PRELIMINARY

1. Short title, commencement and application— (1) This Act may be called the National Airports Authority Act, 1985.

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

(3) it applies to -

(a) all aerodromes whereat domestic air transport services are operated or are intended to be operated, other than -

(i) aerodromes to which the International Airports Authority Act, 1971 applies; and

(ii) aerodromes and airfields belonging to, or subject to the control of, any armed force of the Union;

(b) all civil enclaves; and

(c) all aeronautical communication stations.

2. Definitions— In this Act, unless the context otherwise requires, -

(a) “air traffic service” includes flight information service, alerting service, air traffic advisory service, air traffic control service, area control service, approach control service and aerodrome control service;

(b) “air transport service” means any service, for any kind of remuneration, whatsoever, for the transport by air of persons, mail or any other thing, animate or inanimate, whether such service relates to a single flight or series of flights;

(c) “Authority” means the National Airports Authority constituted under section 3;

(d) “civil enclave” means the area, if any, allotted at an aerodrome belonging to any armed force of the Union, for use by persons availing of any air transport services from such aerodrome or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(e) “heliport” means an area, either at ground level or elevated on a structure, used or intended to be used for the landing and take off of helicopters and includes any
area for parking helicopters and all buildings and structures thereon or appertaining thereto;

(f) “member” means a member of the Authority and includes the Chairman, but does not include, for the purposes of sections 4, 5, 6 and 7, an ex-officio member referred to in clause (b) of sub-section (3) of section 3;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “regulations” means regulations made under this Act; and

(i) words and expressions used herein and not defined but defined in the Aircraft Act, 1934, shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

THE NATIONAL AIRPORTS AUTHORITY

3. Constitution and incorporation of the Authority — (1) With effect from the commencement of this Act, the Central Government shall constitute an authority to be called the National Airports Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of -

(a) a Chairman to be appointed by the Central Government;

(b) the Director-General of Civil Aviation, ex-officio; and

(c) not less than eight and not more than fourteen members to be appointed by the Central Government.

(4) The Chairman shall be a whole-time member and other members referred to in clause (c) of sub-section (3) may be appointed as whole time or part-time members as the Central Government may think fit.

(5) The Chairman and the members referred to in clause (c) of sub-section (3) shall be chosen from among persons who have special knowledge and experience in air transport or other transport services, industry commercial or financial matters or administration and from among persons who are capable or representing organizations of workers and consumers.

4. Disqualification for office of member — A person shall be disqualified for being appointed as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. Term of office and conditions of service of members — (1) Subject to the provisions of section 6, every member (other than the ex
officio member) shall hold office for a period of three years from the date on which he assumes office:

Provided that the Central Government may-

(a) terminate the appointment of any whole-time member, who is not a servant of the Government, after giving him notice for a period of not less than three months or in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate the appointment of any part-time member who is not a servant of the Government after giving him notice for such period as may be prescribed; and

(c) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

(4) A casual vacancy caused by the resignation of a member under sub-section (3) or otherwise may be filled by fresh appointment and the person so appointed shall hold office for the remaining period for which the member in whose place he is appointed would have held office.

6. Vacation of office of member—The Central Government shall remove a member if he -

(a) becomes subject to any of the disqualifications mentioned in section 4:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. Eligibility of member for reappointment—Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for reappointment as such.

8. Meetings — (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of the business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairman, or, if for any reason he is unable to attend any meeting of the authority any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.
9. **Vacancies, etc., not to invalidate proceedings of the Authority** — No act or proceeding of the Authority shall be invalid merely by reason of -

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. **Appointment of officers and other employees of the Authority** — For the purpose of enabling it efficiently to discharge its functions under this Act, the Authority shall, subject to the provisions of section 13 and to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as its may consider necessary:

Provided that the appointment of such category of officers, as may be specified after consultation with the Chairman in such rules, shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 13, every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

11. **Authority to act on business principles** — In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.

### CHAPTER III

**FUNCTIONS OF THE AUTHORITY**

12. **Functions of the Authority** — (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the Authority to manage the aerodromes, the civil enclaves and the aeronautical communication stations efficiently.

(2) It shall be the duty of the Authority to provide air traffic service and air transport service at any aerodrome and civil enclaves.

(3) Without prejudice to the generality of the provisions contained in sub-sections (1) and (2), the Authority may —

(a) plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the aerodromes and civil enclaves;

(b) plant, procure, install and maintain navigational aids, communication equipment, beacons and ground aids at the aerodromes and at such locations as may be considered necessary for safe navigation and operation of aircraft;

(c) provide air safety services and search and rescue facilities in co-ordination with other agencies;

(d) establish schools or institutions or centres for the training of its officers and employees in regard to any matter connected with the purposes of this Act;

(e) construct residential buildings for its employees;

(f) establish and maintain hotels, restaurants and restrooms at or near the aerodromes;

(g) establish warehouses and cargo complexes at the aerodromes for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at the aerodromes and civil enclaves;
(i) make appropriate arrangements of watch and ward at the aerodromes and civil enclaves;

(j) regulate and control the plying of vehicles, and the entry and exit of passengers and visitors, in the aerodromes and civil enclaves with due regard to the security and protocol functions of the Government of India;

(k) develop and provide consultancy services in India and abroad in relation to planning and development of airports, air navigation services, ground aids and safety services or any facilities thereat;

(l) establish and manage heliports;

(m) provide such transport facility as are, in the opinion of the Authority, necessary to the passengers travelling by air;

(n) for an one or more companies under the Companies Act, 1956 or under any other law relating to companies to further the efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act; and

(p) perform any other function considered necessary or desirable by the Central Government for ensuring the safe and efficient operation of aircraft to, from and across the air space of India.

(4) Notwithstanding anything contained in the International Airports Authority Act, 1971 or sub-section (3) of section 1 or any other provision of this Act, the Authority shall, if the Central Government so directs by notification in the Official Gazette, discharge the function of providing air navigation services referred to in the proviso to sub-section (2) of section 16 of the International Airports Authority Act, 1971 at the airports to which that Act applies.

(5) In the discharge of its functions under this section, the Authority shall have due regard to the development of air transport service and to the efficiency, economy and safety of such service.

(6) Nothing contained in this section shall be construed as —

(a) imposing an obligation on the Authority to discharge any function or duty [other than the function mentioned in sub-section (4) and the duties arising therefrom] with respect to any aerodrome to which this Act does not apply;

(b) authorising the disregard by the Authority of any law for the time being in force; or

(c) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject.

CHAPTER IV

PROPERTY AND CONTRACT

13. Transfer of assets and liabilities of the Central Government to the Authority—

(1) As from such date as the Central Government may appoint by notification in the Official Gazette-

(a) all properties and other assets including the equipment and navigational and ground aids relating to air traffic services and vested in the Central Government
for the purposes of any aerodrome, civil
enclave and aero-nautical communication
station and administered by the Director-
General of Civil Aviation immediately
before such date shall vest in the
Authority;

(b) all properties and other assets vested in
the Central Government for the purposes
of Civil Aviation Training Centre,
Allahabad and the Fire Service Training
School, Calcutta and administered by
the Director-General of Civil Aviation
immediately before such date shall vest
in the Authority;

(c) all residential buildings owned by the
Director-General of Civil Aviation
immediately before such date shall vest
in the Authority;

(d) all debts, obligations and liabilities
incurred, all contracts entered into, and
all matters and things engaged to be done
by, with, or for the Central government
immediately before such date for or in
connection with the purposes of any
aerodrome, civil enclave, aeronautical
communication station, the Civil
Aviation Training Centre and the Fire
Services Training School shall be deemed
to have been incurred, entered into and
engaged to be done by, with or for the
Authority;

(e) all non-recurring expenditure incurred
by the Central Government for or in
connection with the purposes of any
aerodrome, civil enclave, aeronautical
communication station, Civil Aviation
Training Centre, Fire Services Training
School up to such date and declared to
be capital expenditure by the Central
Government shall subject to such terms
and conditions as may be prescribed by
the Central Government, be treated as
capital provided by the Central
Government to the Authority.

(f) all sums of money due to the Central
Government in relation to any
aerodrome, civil enclave, aeronautical
communication station, Civil Aviation
Training Centre and Fire Service Training
School immediately before such date
shall be deemed to be due to the Authority;

(g) all suits and other legal proceedings
instituted or which could have been
instituted by or against the Central
Government immediately before such
date for any matter in relation to any
aerodrome, civil enclave, aeronautical
communication station, Civil Aviation
Training Centre and Fire Services
Training School may be continued or
instituted by or against the Authority.

(2) If any dispute or doubt arises as to which
of the properties, rights or liabilities of the
Central Government have been transferred to
the Authority or as to which of the employees
serving under the Director-
General of Civil
Aviation are to be treated as on deputation
with the Authority under this section, such
dispute or doubt shall be decided by the Central
Government in consultation with the Authority
and the decision of the Central Government
thereon shall be final.

(3) Every employee holding any office under
the Director-General of Civil Aviation
immediately before the commencement of this
Act solely or mainly for or in connection with
such affairs of the directorate-General of Civil
Aviation as are relevant to the functions of the
Authority under this Act as may be determined
by the Central Government shall be treated as
on deputation with the Authority but shall hold
his office in the Authority by the same tenure
and upon the same terms and conditions of
service as respects remuneration, leave,
provident fund, retirement or other terminal
benefits as he would have held such office if the
Authority had not been constituted and shall
continue to do so until the Authority duly absorbs
such employee in its regulate service:
Provided that during the period of deputation of any such employee with the Authority, the Authority shall pay the Central Government in respect of every such employee, such contribution toward his leave, salary, pension and gratuity as the Central Government may, by order, determine:

Provided further that any such employee, who has, in respect of the proposal of the Authority to absorb him in his regular service, intimated within such time as may be specified in this behalf by the Authority his intention of not becoming a regular employee of the Authority, shall not be absorbed by the Authority.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any employee by the Authority in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

14. Compulsory acquisition of land for the Authority — Any land required by the Authority for discharging its functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1894 or of any other corresponding law for the time being in force.

15. Contracts by the Authority — Subject to the provisions of section 16, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

16. Mode of executing contracts on behalf of the Authority — (1) Every contract shall, on behalf of the Authority, be made by the Chairman or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or class of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Authority:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be specified by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the regulations shall be binding on the Authority.

CHAPTER V
FINANCE, ACCOUNTS AND AUDIT

17. Power of the Authority to charge fees, rent, etc.— (1) The Authority may,—

(i) with the previous approval of the Central Government, charge fees or rent,—
(a) for the landing, housing or parking of aircraft or for any other service or facility offered in connection with aircraft operations at any aerodrome or heliport.

Explanation. - In this sub-clause “aircraft” does not include an aircraft belonging to any armed force of the Union and “aircraft operations” do not include operations of any aircraft belonging to the said force;

(b) for providing air traffic services, ground safety services, aeronautical communications and navigational aids and meteorological services at any aerodrome and at any aeronautical communication stations;

(c) for the amenities given to the passengers and visitors at any aerodrome, civil enclave or heliport;

(d) for the use and enjoyment by persons of facilities and other services provided by the Authority at any aerodrome, civil enclave or heliport;

(ii) with due regard to the instructions that the Central Government may give to the Authority, from time to time, charge fees or rent from persons who are given by the Authority any facility for carrying on any trade or business at any aerodrome or heliport.

(2) The Authority may also charge, with the previous approval of the Central Government, fees for providing air navigation services referred to in sub-section (4) of section 12 at the airports to which the International Airports Authority Act, 1971 applies.

18. Additional capital and grant to the Authority by the Central Government —

The Central Government may, after due appropriation made by Parliament by law in this behalf, -

(a) provide any capital, over and above the capital provided under clause (e) of sub-section (1) of section 13 that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

19. Fund of the Authority — (1) The Authority shall have its own fund and all receipts of the Authority shall be credited thereto and all payments of the Authority shall be made therefrom.

(2) The Authority shall have power, subject to the provisions of this Act, to spend such sums as its thinks fit to cover all administrative expenses of the Authority and on objects or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be deposited in the State Bank of India or in such scheduled bank or banks and subject to such conditions as may, from time to time, be specified by the Central Government.

Explanation. - In this sub-section, “scheduled bank” has the same meaning as in clause (e) of section 2 of the Reserve Bank of India Act, 1934. (2 of 1934)
20. Allocation of surplus funds — (1) The Authority may, from time to time, set apart such amounts as its thinks fit as a reserve fund or funds for the purpose of expanding existing facilities or services or creating new facilities or services at any aerodrome or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement or for meeting expenditure arising from loss or damage from fire, cyclone, air-crash or other accident or for meeting any liability arising out of any act or omission in the discharge of its functions under this Act:

Provided that without prejudice to the right of the Authority to establish specific reserves for one or more specific purposes, the Authority shall also have the power to establish a general reserve:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time be fixed in that behalf by the Central Government.

(2) The statement prepared under sub-section (1) shall, not less than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(3) The statement and the financial estimates of the Authority may with the approval of the Central Government, be revised by the Authority.

22. Investment of funds — The Authority may invest its funds (including any reserve fund) in the securities of the Central Government or in such other manner as may be prescribed.

23. Borrowing powers of the Authority — (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as its thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise such amount as its may require for discharging its functions under this Act.

21. Submission of programme of activities and financial estimates — (1) The Authority shall, before the commencement of each financial year, prepare a statement of the programme of its activities during the forthcoming financial year as well as a financial estimate in respect thereof.

(2) The statement prepared under sub-section (1) shall, not less than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(3) The statement and the financial estimates of the Authority may with the approval of the Central Government, be revised by the Authority.

24. Accounts and audit — (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI
MISCELLANEOUS

25. Submission of annual report — (1) The Authority shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be undertaken by the Auditing the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

26. Delegation — The authority may, by general or special order in writing, delegate to the Chairman or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 38) as it may deem necessary.

27. Authentication of orders and other instruments of the Authority — All orders and decisions of the Authority shall be authenticated by the signature of the Chairman or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

28. Officers and employees of the Authority to be public servants — All officers and employees of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal code.

29. Protection of action taken in good faith — No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder or for any damage sustained by any aircraft or vehicle in consequence of any defect in any of the aerodromes, civil enclaves, aeronautical communication stations or other things belonging to or under the control of the Authority.
30. Custody and disposal of lost property— Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control or in any aircraft on any such premises.

31. Provisions relating to income-tax — For the purpose of the Income-tax Act, 1961 or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Authority shall be deemed to be a company within the meaning of the Income-tax, 1961 and shall be liable to tax accordingly on its income, profits and gains.

32. Power of the Authority to undertake certain works — The Authority may undertake to carry out on behalf of any person any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the person concerned.

33. Power to issue directions — (1) The Authority or any officer specially authorised by it in this behalf may, from time to time, by order, issue directions, consistent with provisions of the Aircraft Act, 1934, and the rules made thereunder, with respect to any of the matters specified in clauses (f), (h), (i), (j), (k), (m), (p), (q), and (r) of sub-section (2) of section 5 of that Act, to any person or persons engaged in aircraft operations or using any aerodrome or civil enclave, in any case where the Authority or the officer is satisfied that in the interests of the security of India or for securing the security of the aircraft it is necessary to do so.

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

(3) If any person wilfully fails to comply with any direction issued under this section, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both.

34. Power of the Central Government to temporarily divest the Authority of the management of any aerodrome — (1) If at any time the Central Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the management of any aerodrome, civil enclave or aeronautical communication station with effect from such date and to such person as may be specified in the order and the Authority shall be bound to comply with such direction:

Provided that before an order is made under this sub-section the Authority shall be given a reasonable opportunity of being heard in the matter.

(2) Where the management of any aerodrome, civil enclave or aeronautical communication station is entrusted to any person specified under sub-section (1) (hereafter in this section referred to as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such aerodrome, civil enclave or aeronautical communication station and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the Central Government may give to the authorised person from time to time.
Provided that no such power or function as may be specified by the Central Government by a general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the Central Government.

(3) An order made under sub-section (1) shall unless rescinded, be in operation for a period of six months from the date on which the management of the aerodrome, civil enclave or aeronautical communication station is entrusted to the authorised person:

Provided that the Central Government may extend such period for a further period or period not exceeding eighteen months.

(4) During the operation of an order made under sub-section (1), it shall be competent for the Central Government to issue, from time to time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the aerodrome, civil enclave or aeronautical communication station, the management of which has been entrusted to his and in particular to transfer any sum of money from the fund of the Authority to the authorised person for the management of such aerodrome, civil enclave, aeronautical communication station and every such direction shall be complied with by the Authority.

(5) On the cesser of operation of any order made under sub-section (1) in relation to any aerodrome, civil enclave, aeronautical communication station, the authorised person shall hand over to the Authority any property (including any sum of money or other asset) remaining with him in connection with the management of such aerodrome, civil enclave, aeronautical communication station.

(6) On the cesser of operation of any order made under sub-section (1) in relation to any aerodrome, civil enclave, aeronautical communication station, the authorised person shall hand over to the Authority any property (including any sum of money or other asset) remaining with him in connection with the management of such aerodrome, civil enclave, aeronautical communication station.

(7) Anything done or any action taken lawfully by the authorised person in relation to any aerodrome, civil enclave, aeronautical communication station during the period of operation of an order made under sub-section (1) shall be deemed to have been done or taken by the Authority and shall be binding on the Authority.

35. Power of the Central Government to supersede the Authority — (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default the financial position of the Authority or the administration of any aerodrome, civil enclave, aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:
Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b) the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority

(a) all the members shall, as from the date of supersession vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may -

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case any persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

36. Power of the Central Government to issue directions — (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions to it under clause (e) of sub-section (3) of section 12 and the Authority shall be bound to comply with such directions.

37. Power to make rules — (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the conditions of service of the Chairman and other members under section 5 including the salaries payable to the
Chairman and to the members who are required to render whole-time service and the fees and allowances payable to the members who are required to render part-time service;

(b) the period of notice required to terminate the appointment of any member, who is required to render part-time service and who is not a servant of the Government, under section 5 and the period of notice that may be given to the Central Government by a member before he resigns his office, under that section;

(c) the conditions and limitations subject to which the Authority may appoint officers and other employees under sub-section (1) of section 10;

(d) the terms and conditions subject to which the non-recurring expenditure incurred by the Central Government for or in connection with the purposes of any aerodrome, civil enclave, aeronautical communication station, the Civil Aviation Training Centre and the Fire service Training School shall be treated as the capital provided by the Central Government to the Authority under clause (e) of sub-section (1) of section 13;

(e) the manner in which the Authority may invest its funds under section 22;

(f) the form in which the Authority shall prepare the annual statement of accounts including the profit and loss account and the balance-sheet under section 24; and

(g) any other matter which is to be or may be prescribed.

38. Power to make regulations — (1) The Authority may make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

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

(a) the time and places of the meetings of the Authority and the procedure to be followed for the transaction of business at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees appointed by the Authority;

(c) the allotment of residential accommodation to the officers and other employees appointed by the Authority;

(d) the contracts or class of contracts which are to be sealed with the common seal of the Authority and the form and manner in which a contract may be made by the Authority;

(e) the storage or processing of goods in any warehouse established by the Authority under clause (g) of sub-section (3) of section 12 and the charging of fees for such storage or processing;

(f) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto;

(g) the disposal of any lost property in cases where such property is not restored;

(h) securing the safety of aircraft, vehicles and persons using the aerodrome or civil enclave and preventing danger to the public arising from the use and operation of aircraft in the aerodrome or civil enclave;
(i) preventing obstruction within the aerodrome or civil enclave for its normal functioning;

(j) prohibiting the parking or waiting of any vehicle of carriage within the aerodrome or civil enclave except at places specified by the Authority;

(k) prohibiting or restricting access to any part of the aerodrome or civil enclave;

(l) preserving order within the aerodrome or civil enclave and preventing damage to property therein;

(m) regulating or restricting advertising within the aerodrome or civil enclave;

(n) requiring any person, if so directed by an officer appointed by the Authority in this behalf, to leave the aerodrome or civil enclave or any particular part of the aerodrome or civil enclave; and

(o) generally for the efficient and proper management of the aerodrome or civil enclave.

(3) Any regulation made under any of the clauses (h) to (o) (inclusive) of sub-section (2) may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) No regulation made by the Authority under this Act may be made by the Central Government by notification in the Official Gazette within one year of the constitution of the Authority and any regulation so made may be altered or rescinded by the Authority by means of a regulation made by it under this Act.

40. Rules and regulations to be laid before Parliament—Every rule and every regulation made under this shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

41. Power to remove difficulties—If any difficulty arises in giving effect to the provisions of this Act, The Central Government may, by general or special order published in the Official Gazette make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which
may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

42. Amendment of Act 22 of 1934 — In sub-section (2) of section 5 of the Aircraft Act, 1934, in clause (b), after the words and figures "the International Airports Authority Act, 1971", the words and figures "or the National Airports Authority Act, 1985" shall be inserted. 43 of 1971
CHAPTER VI

THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

(55 OF 1994)
### CHAPTER VI

THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

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CHAPTER VI
THE AIRPORTS AUTHORITY OF INDIA ACT, 1994
(55 of 1994)
(September 12, 1994)

An Act to provide for the constitution of the Airports Authority of India and for the transfer and vesting of the undertakings of the International Airports Authority of India and the National Airports Authority to and in the Airports Authority of India so constituted for the better administration and cohesive management of airports and civil enclaves whereat air transport services are operated or are intended to be operated and of all aeronautical communication stations and for matters connected therewith or incidental thereto.

Be it enacted by parliament in the Forty-fifth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. Short title, commencement and application—(1) This Act may be called the Airports Authority of India Act, 1994.

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

(3) It applies to—
   (a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to, or subject to the control of, any armed force of the Union;
   (b) all civil enclaves;
   (c) all aeronautical communication stations; and
   (d) all training stations, establishments and workshops relating to air transport services.

2. Definitions—In this Act, unless the context otherwise requires,—
   (a) “aeronautical communication station” means a station in the aeronautical communication service which includes aeronautical practising service, aeronautical fixed service, aeronautical mobile service and aeronautical radio communication service;
   (b) “airport” means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;
   (c) “airstrip” means an area used or intended to be used for the landing and take-off of aircrafts with short take-off and landing characteristics and includes all buildings and structures thereon or appertaining thereto;
   (d) “air traffic service” includes fight information service, alerting service, air traffic advisory service, air traffic control service, area control service, approach control service and airport control service;
(e) “air transport service” means any service, for any kind of remuneration, whatsoever, for the transport by air of persons, mail or any other thing, animate or inanimate, whether such service relates to a single flight or series of flights;

(f) “appointed day” means such date as the Central Government may, by notification in the official Gazette, appoint for the purposes of section 3;

(g) “Authority” means the Airports Authority of India constituted under section 3;

(h) “Chairperson” means the chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3;

(i) “civil enclave” means the area, if any, allotted at an airport belonging to any armed force of the union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(j) “heliport” means an area, either at ground level or elevated on a structure, used or intended to be used for the landing and take-off of helicopters and includes any area for parking helicopters and all buildings and structures thereon or appertaining thereto;

(k) “International Airports Authority” means the International Airports Authority of India constituted under section 3 of the International Airports Authority Act, 1971;

(l) “member” means a member of the Authority and includes the chairperson, but does not include, for the purposes of sections 4, 5, 6, and 7, an ex officio member referred to in clause (b) of sub-section (3) of section 3;

(m) “National Airports Authority” means the National Airports Authority constituted under section 3 of the National Airports Authority Act, 1985;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “regulations” means regulations made under this Act.

CHAPTER II

THE AIRPORTS AUTHORITY OF INDIA

3. Constitution and incorporation of the Authority—(1) With effect from the appointed day, the Central Government shall, by notification in the official Gazette, constitute an authority to be called the Airports Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of—

(a) a chairperson to be appointed by the central government;

(b) the Director General of Civil aviation, or an officer not below the rank of the Deputy Director General of Civil Aviation, to be appointed by the Central Government, ex officio;

(c) not less than eight and not more than fourteen members to be appointed by the Central Government.
(4) The Chairperson shall be a whole-time member and other members referred to in clause (c) of sub-section (3) may be appointed as whole-time or part-time members as the Central Government may think fit.

(5) The Chairperson and the members referred to in clause (c) of subsection (3) shall be chosen from among persons who have special knowledge and experience in air transport or any other transport services industry, commercial or financial matters or administration and from among persons who are capable of representing organisations of workers and consumers.

4. Disqualification for office of member— A person shall be disqualified for being appointed as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. Term of office and conditions of service of members— (1) Subject to the provisions of section 6,—

(i) every whole-time member (other than the ex officio member) shall hold office for a period of five years from the date on which he assumes office or till he attains the age of sixty years, whichever is earlier, and

(ii) every part-time member (other than the ex officio member) shall hold office for a period of three years from the date on which he assumes office:

Provided that the Central Government may—

(a) terminate the appointment of any whole-time member, who is not a servant of the Government, after giving him notice for a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate the appointment of any part-time member who is not a servant of the Government after giving him notice for such period as may be prescribed; and

(c) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the official Gazette by that Government, such member shall be deemed to have vacated his office.

6. Vacation of office of member— The Central Government shall remove a member if he—

(a) becomes subject to any of the disqualifications mentioned in section 4:
Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. Eligibility of member for re-appointment — Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.

8. Meetings — (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of the business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, or, if for any reason he is unable to attend any meeting of the authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have and exercise a second or casting vote.

9. Vacancies, etc., not to invalidate proceedings of the Authority — No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. Appointment of officers and other employees of the Authority — (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Authority shall, subject to the provisions of section 18 and to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified after consultation with the Chairperson in such rules, shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 18, every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

11. Authority to act on business principles — In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.
CHAPTER III

FUNCTIONS OF THE AUTHORITY

12. Functions of the Authority— (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the Authority to manage the airports, the civil enclaves and the aeronautical communication stations efficiently.

(2) It shall be the duty of the Authority to provide air traffic service and air transport service at any airport and civil enclaves.

(3) Without prejudice to the generality of the provisions contained in sub-sections (1) and (2), the Authority may—

(a) plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves;

(b) plan, procure, install and maintain navigational aids, communication equipment, beacons and ground aids at the airports and at such locations as may be considered necessary for safe navigation and operation of aircrafts;

(c) provide air safety services and search and rescue facilities in co-ordination with other agencies;

(d) establish schools or institutions or centres for the training of its officers and employees in regard to any matter connected with the purposes of this Act;

(e) construct residential buildings for its employees;

(f) establish and maintain hotels, restaurants and restrooms at or near the airports;

(g) establish warehouses and cargo complexes at the airports for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at the airports and civil enclaves;

(i) make appropriate arrangements for watch and ward at the airports and civil enclaves;

(j) regulate and control the plying of vehicles, and the entry and exit of passengers and visitors, in the airports and civil enclaves with due regard to the security and protocol functions of the Government of India;

(k) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to airports, air-navigation services, ground aids and safety services or any facilities thereat;

(l) establish and manage heliports and airstrips;

(m) provide such transport facility as are, in the opinion of the Authority, necessary to the passengers travelling by air;

(n) form one or more companies under the Companies Act, 1956 or under any other law relating to companies to further the efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act;
(p) perform any other function considered necessary or desirable by the Central Government for ensuring the safe and efficient operation of aircraft to, from and across the air space of India;

(q) establish training institutes and workshops;

(r) any other activity at the airports and the civil enclaves in the best commercial interests of the Authority including cargo handling, setting up of joint ventures for the discharge of any function assigned to the Authority.

(4) In the discharge of its functions under this section, the Authority shall have due regard to the development of air transport service and to the efficiency, economy and safety of such service.

(5) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject.

CHAPTER  IV
PROPERTY AND CONTRACT

13. Undertakings of the International Airports Authority and the National Airports Authority to vest in the Authority—

(1) On and from the appointed day, there shall be transferred to, and vest in, the Authority constituted under section 3, the undertakings of the International Airports Authority and the National Airports Authority.

(2) The undertaking of the International Airports Authority or the National Airports Authority which is transferred to and which vests in, the Authority under sub-section (1) shall be deemed to include all assets, rights, powers, authorities and privileges and all property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature and wheresoever situate, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the International Airports Authority, or as the case may be, the National Airports Authority, in relation to its undertaking, whether within or outside India, all books of account and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting in relation to the International Airports Authority, or as the case may be, the National Airports Authority in relation to its undertaking.

14. General effect of vesting of undertaking in the Authority — (1) All contracts, agreements and working arrangements subsisting immediately before the appointed day and affecting the International Airports Authority, or as the case may be, the National Airports Authority shall, in so far as they relate to the International Airports Authority, or as the case may be, the National Airports Authority, cease to have effect or be enforceable against the International Airports Authority, or as the case may be, the National Airports Authority, cease to have effect or be enforceable against the International Airports Authority, or as the case may be, the National Airports Authority and shall be of as full force and effect against or in favour of the Authority in which the undertakings have vested by virtue of this Act and enforceable as fully and effectually as if, instead of the International Airports Authority, or as the case may be, the
National Airports Authority, the Authority had been named therein or had been a party thereto.

(2) Any proceeding, suit or cause of action pending or existing immediately before the appointed day by or against the International Airports Authority or the National Airports Authority in relation to its undertakings may, as from that day, be continued and enforced by or against the Authority in which it has vested by virtue of this Act, as might have been enforced by or against the International Airports Authority or the National Airports Authority if this Act had not been passed, and shall cease to be enforceable by or against the International Airports Authority, or as the case may be, the National Airports Authority.

15. Licences, etc., to be deemed to have been granted to the Authority—With effect from the appointed day, all licences, permits, quotas and exemptions, granted to the International Airports Authority or the National Airports Authority in connection with the affairs and business of the International Airports Authority, or as the case may be, the National Airports Authority, shall be deemed to have been granted to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

16. Tax exemption or benefit to continue to have effect—(1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the International Airports Authority or the National Airports Authority, under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

(2) Where any payment made by the International Airports Authority or the National Airports Authority is exempt from deduction of the tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the said Act were applicable to the International Airports Authority or the National Airports Authority were operative in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

(3) The transfer and vesting of the undertakings or any part thereof in terms of section 13 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

17. Guarantee to be operative—Any guarantee given for or in favour of the International Airports Authority or the National Airports Authority with respect to any loan or lease finance shall continue to be operative in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

18. Provisions in respect of officers and other employees of the International Airports Authority and the National Airports Authority—(1) (a) Every officer or other employee of the International Airports Authority serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Authority by virtue of this Act, becomes, as from the appointed day, an officer or, as the case may be, other employee of the International Airports Division of the Authority.
(b) Every officer or other employee of the National Airports Authority serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Authority by virtue of this Act, becomes, as from the appointed day, an officer or, as the case may be, other employee of the National Airports Division of the Authority.

(2) Every officer or other employee of the International Airports Authority or the National Airports Authority who becomes an officer or, as the case may be, other employee of the Authority, as referred to in sub-section (1), shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under the International Airports Authority or, as the case may be, the National Airports Authority if its undertaking had not vested in the Authority and shall continue to do so as an officer or other employee, as the case may be, of the Authority or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to be the officer or other employee of the Authority within such period:

Provided that if the Authority thinks it expedient to extend the period so fixed, it may extend the same up to maximum period of one year.

(3) Where an officer or other employee of the International Airports Authority or the National Airports Authority opts under sub-section (2) not to be in the employment or service of the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested, such officer or other employee shall be deemed to have resigned from the respective cadre.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the International Airports Authority or the National Airports Authority to the Authority shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) The officers and other employees who have retired before the appointed day from the service of the International Airports Authority or the National Airports Authority and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Authority in which the undertaking of the International Airports Authority and the National Airports Authority have vested.

(6) The trusts of the Provident Fund and Group Insurance and Superannuation Scheme of the International Airports Authority or the National Airports Authority and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Authority as was being done hitherto in the International Airports Authority or the National Airports Authority and tax exemption granted to provident Fund or Group Insurance and Superannuation Scheme would continue to be applied to the Authority.

(7) After the expiry of the period of one year, or the extended period, as referred to in sub-section (2), all the officers and other employees transferred and appointed to the
Authority, other than those opting not to be the officers or employees of the Authority within such period, shall be governed by the rules and regulations made by the Authority in respect of the service conditions of the officers and other employees of the said Authority.

19. Compulsory acquisition of land for the Authority — Any land required by the Authority for the discharge of its functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1894 or of any other corresponding law for the time being in force.

20. Contracts by the Authority — Subject to the provisions of section 21, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

21. Mode of executing contracts on behalf of the Authority — (1) Every contract shall, on behalf of the Authority, be made by the chairperson or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or class of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be specified by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the regulations shall be binding on the Authority.

CHAPTER V
FINANCE, ACCOUNTS AND AUDIT

22. Power of Authority to charge fees, rent, etc.— The Authority may —

(i) With the previous approval of the Central Government charge fees or rent—

(a) for the landing, housing or parking of aircraft or for any other service or facility offered in connection with aircraft operations at any airport, heliport or airstrip;

Explanation — In this sub-clause “aircraft” does not include an aircraft belonging to any armed force of the Union and “aircraft operations” does not include operations of any aircraft belonging to the said force;

(b) for providing air traffic services, ground safety services, aeronautical communications and navigational aids and meteorological services at any airports and at any aero-nautical communication station;

(c) for the amenities given to the passengers and visitors at any airport, civil enclave, heliport or airstrip;

(d) for the use and employment by persons of facilities and other
services provided by the Authority at any airport, civil enclave, heliport or airstrip;

(ii) with due regard to the instructions that the Central Government may give to the Authority, from time to time, charge fees or rent from persons who are given by the Authority any facility for carrying on any trade or business at any airport, heliport or airstrip.

23. Additional capital and grant to the Authority by the Central Government——The Central Government may, after due appropriation made by parliament by law in this behalf,—

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

24. Fund of the Authority and its investment——(1) The Authority shall have its own fund and all receipts of the Authority shall be credited thereto and all payments of the Authority shall be made therefrom.

(2) The authority shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority and on objects or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be —

(a) deposited in the State Bank of India or any such Scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Central Government; and

(b) invested in the securities of the Central Government or in such manner as may be prescribed.

Explanation— In this sub-section, “Scheduled bank” has the same meaning as in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

25. Allocation of surplus funds——(1) The Authority may, from time to time, set apart such amounts as it thinks fit as a reserve fund or funds for the purpose of expanding existing facilities or services or creating new facilities or services at any airport, civil enclave, heliport or airstrip or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, cyclone, air-crash or other accident or for meeting any liability arising out of any act or commission in the discharge of its functions under this Act:

Provided that without prejudice to the right of the Authority to establish specific reserves for one or more specific purposes, the Authority shall also have the power to establish a general reserve:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any
time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

(2) After making provision for such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, the Authority shall pay the balance of its annual net profits to the Central Government.

26. Submission of programme of activities and financial estimates— (1) The Authority shall, before the commencement of each financial year, prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof.

(2) The statement prepared under sub-section (1) shall, not less than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(3) The statement and the financial estimates of the Authority may, with the approval of the Central Government, be revised by the Authority.

27. Borrowing powers of the Authority— (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise such amounts as it may require for discharging its functions under this Act.

28. Accounts and audit— (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, documents and papers and inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.
CHAPTER VI
MISCELLANEOUS

29. Submission of annual report—(1) The Authority shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be undertaken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

30. Delegation—The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act, (except the powers under section 42) as it may deem necessary.

31. Authentication of orders and other instruments of the Authority—All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

32. Officers and employees of the Authority to be public servants—All officers and employees of the Authority shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

33. Protection of action taken in good faith—No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder or for any damage sustained by any aircraft or vehicle in consequence of any defect in any of the airports, civil enclaves, heliports, airstrips, aeronautical communication stations or other things belonging to or under the control of the Authority.

34. Custody and disposal of lost property—Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control or in any aircraft on any such premises.

35. Provisions relating to income-tax—For the purposes of the Income-tax Act, 1961 or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Authority shall be deemed to be a company within the meaning of the Income-tax Act, 1961 and shall be liable to tax accordingly on its income, profits and gains.

36. Power of the Authority to undertake certain works—The Authority may undertake to carry out on behalf of any person any works or services or any class of works or services
on such terms and conditions as may be agreed upon between the Authority and the person concerned.

37. **Power to issue directions**— (1) The Authority or any officer specially authorised by it in this behalf may, from time to time, by order, issue directions, consistent with the provisions of the Aircraft Act, 1934, and the rules made thereunder, with respect to any of the matters specified in clauses (f), (h), (i), (j), (k), (m), (p), (qq) and (r) of sub-section (2) of section 5 of that Act, to any person or persons engaged in aircraft operations or using any airport, heliport, airstrip or civil enclave, in any case where the Authority or the officer is satisfied that in the interests of the security of India or for securing the security of the aircraft it is necessary to do so.

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

(3) If any person wilfully fails to comply with any direction issued under this section, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both.

38. **Power of the Central Government to temporarily divest the Authority of the management of any airport**— (1) If, at any time, the Central Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the administration, management or similar other functions of any airport, heliport, airstrip, civil enclave, aeronautical communication station, or any other agency or department of any airport, heliport, airstrip, civil enclave or aeronautical communication station with effect from such date and to such person as may be specified in the order and the Authority shall be bound to comply with such direction:

Provided that before an order is made under this sub-section the Authority shall be given a reasonable opportunity of being heard in the matter.

(2) Where the management of any airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof is entrusted to any person specified under sub-section (1) (hereafter referred to in this section as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the central Government may give to the authorised person from time to time:

Provided that no such power or function as may be specified by the Central Government by a general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the Central Government.

(3) An order made under sub-section (1) shall, unless rescinded, be in operation for a period of six months from the date on which the management of the airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof is entrusted to the authorised person:

Provided that the Central Government may extend such period for a further period or periods not exceeding eighteen months.
(4) During the operation of an order made under sub-section (1), it shall be competent for the Central Government to issue, from time to time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the management of which has been entrusted to him and in particular to transfer any sum of money from the fund of the Authority to the authorised person for the management of the airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and every such direction shall be complied with by the Authority.

(5) On the cesser of operation of any order made under sub-section (1) in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and the Authority shall continue to exercise and perform such powers and functions in accordance with the provisions of this Act.

(6) On the cesser of operation of any order made under sub-section (1) in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the authorised person shall hand over to the Authority any property (including any sum of money or other asset) remaining with him in connection with the management of such airport, heliport, airstrip, civil enclave or aeronautical communication station.

(7) Anything done or any action taken lawfully by the authorised person in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof during the period of operation of an order made under sub-section (1) shall be deemed to have been done or taken by the Authority and shall be binding on the Authority.

39. Power of the Central Government to supersede the Authority—(1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.
Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

On the expiration of period of supersession specified in the notification issued under sub-section (1), the Central Government may,

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of parliament at the earliest opportunity.

40. Power of the Central Government to issue directions— (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions to it under clause (e) of sub-section (3) of section 12 and the Authority shall be bound to comply with such directions.

41. Power to make rules— (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the period of notice as may be given by the Central Government to terminate the appointment of any part-time member of the Authority under clause (b) of proviso to sub-section (1) of section 5;

(b) the conditions of service of the members of the Authority under sub-section (2) of section 5;

(c) the period of notice as may be given by any member to resign his office under sub-section (3) of section 5;
(d) the provisions subject to which officers and other employees may be appointed by the Authority and the category of officers to be appointed after approval of the Central Government under the proviso to sub-section (1) of section 10;

(e) the provisions subject to which the Authority may manage the airports, civil enclaves and aeronautical communication stations under sub-section (1) of section 12;

(f) the manner in which the Authority may invest its funds under clause (b) of sub-section (3) of section 24;

(g) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 28:

(h) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section (1) of section 29; and

(i) any other matter which is to be, or may be, prescribed.

42. Power to make regulations—(1) The Authority may make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

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

(a) the time and places of the meetings of the Authority and the procedure to be followed for the transaction of business including the quorum at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10;

(c) the construction of residential accommodation for the officers and other employees appointed by the Authority under clause (e) of sub-section (3) of section 12;

(d) the storage or processing of goods in any warehouse established by the Authority under clause (g) of sub-section (3) of section 12 and the charging of fees for such storage or processing;

(e) the contracts or class of contracts which are to be sealed with the common seal of the Authority and the form and manner in which a contract may be made by the Authority under sub-section (1) of section 21;

(f) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto under section 34;

(g) the disposal of any lost property in cases where such property is not restored;

(h) securing the safety of aircraft, vehicles and persons using the airport or civil enclave and preventing danger to the public arising from the use and operation of aircraft in the airport or civil enclave;

(i) preventing obstruction within the airport or civil enclave for its normal functioning;

(j) prohibiting the parking or waiting of any vehicle of carriage within the airport or civil enclave except at places specified by the Authority;
(k) prohibiting or restricting access to any part of the airport or civil enclave;

(l) preserving order within the airport or civil enclave and preventing damage to property therein;

(m) regulating or restricting advertising within the airport or civil enclave;

(n) requiring any person, if so directed by an officer appointed by the Authority in this behalf, to leave the airport or civil enclave or any particular part of the airport or civil enclave; and

(o) generally for the efficient and proper management of the airport or civil enclave.

(3) Any regulation made under any of the clauses (h) to (o) (both inclusive) of sub-section (2) may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) No regulation made by the Authority under this section shall have effect until it has been approved by the Central Government and published in the Official Gazette.

(5) Notwithstanding anything contained in this section, the first regulations under this Act shall be made by the Central Government and shall have effect on being published in the official Gazette.

(6) The first regulations framed under sub-section (5) shall remain in force until such time the Authority has made regulations and they are published in the Official Gazette.

43. Rules and regulations to be laid before parliament.— Every rule and every regulation made under this Act shall be laid, as soon as may be after it made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

44. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification
in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

45. Amendment of Act 22 of 1934.— In section 5 of the Aircraft Act, 1934, in subsection (2),—

(a) in clause (b), for the words and figures “the International Airports Authority Act, 1971 or the National Airports Authority Act, 1985” the words and figures “the Airports Authority of India Act, 1994” shall be substituted;

(b) proviso to clause (b) shall be omitted.

46. Repeal and saving — (1) On and from the appointed date,—

(i) the International Airports Act, 1971 and the National Airports Authority Act, 1985 shall stand repealed;

(ii) the International Airports Authority and the National Airports Authority constituted under the aforesaid Acts shall cease to exist.

(2) Notwithstanding such repeal anything done or any action taken or purported to have been done or taken under the aforesaid Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.
CHAPTER VII

THE CARRIAGE BY AIR ACT, 1972

(69 of 1972)
# CHAPTER VII

## THE CARRIAGE BY AIR ACT, 1972

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 CHAPTER VII

THE CARRIAGE BY AIR ACT, 1972

(69 of 1972)

An Act to give effect to the Convention for the unification of certain rules relating to international carriage by air signed at Warsaw on the 12th day of October, 1929 and to the said Convention as amended by the Hague Protocol on the 28th day of September, 1955 and to make provision for applying the rules contained in the said Convention in its original form and in the amended form (subject to exceptions, adaptations and modification) to non-international carriage by air and for matters connected therewith.

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:

1. Short title, extent and commencement

(1) This Act may be called the Carriage by Air Act, 1972.

(2) It extends to the whole of India.

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

2. Definitions

In this Act, unless the context otherwise requires,—

(1) “amended Convention” means the Convention as amended by the Hague Protocol on the 28th day of September 1955;

(2) “Convention” means the Convention for the unification of certain rules relating to international carriage by air signed at Warsaw on the 12th day of October, 1929.

3. Application of Convention of India—

(1) The rules contained in the First Schedule, being the provisions of the Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, shall, subject to the provisions of this Act, have the force of law in India in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(2) The Central Government may, by notification in the Official Gazette, certify who are the High Contracting Parties to the Convention, in respect of what territories they are parties and to what extent they have availed themselves of the provisions of rule 36 in the First Schedule and any such notification shall be conclusive evidence of the matters certified therein.

(3) Any reference in the First Schedule to the territory of any High contracting Party to the Convention shall construed as a reference to all the territories in respect of which he is a party.

(4) Any reference in the First Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.

(5) Every notification issued under subsection (2) of section 2 of the Indian Carriage by Air Act, 1934 (20 of 1934) and in force immediately before the commencement of this Act shall be deemed to have been issued under sub-section (2) of this section and shall continue to be in force until such notification is superseded.
4. Application of amended Convention to India — (1) The rules contained in the Second Scheduled, being the provisions of the amended Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons shall, subject to the provisions of this Act, have the force of law in India in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(2) The Central Government may, by notification in the Official Gazette, certify who are the High Contracting Parties to the amended Convention and in respect of what territories they are parties, and any such notification shall be conclusive evidence of the matters certified therein.

(3) Any reference in the Second Schedule to the territory of any High Contracting party to the amended Convention shall be construed as a reference to all the territories in respect of which he is party.

(4) Any reference in the Second Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.

5. Liability in case of death — (1) Notwithstanding any thing contained in the Fatal Accidents Act, 1855 (13 of 1855) or any other enactment or rule of law, in force in any part of India, the rules contained in the First Schedule and in the Second Schedule shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger.

(2) The liability shall be enforceable for the benefit of such of the members of the passenger’s family as sustained damage by reason of his death.

Explanation. — In this sub-section, the expression “member of a family” means wife or husband, parent, step-parent, grand-parent, brother, sister, half-brother, half-sister, child, step-child and grand-child:

Provided that in deducing any such relationship as aforesaid any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

(3) An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under sub-section (2) enforceable, but only one action shall be brought in India in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in India or not being domiciled there express a desire to take the benefit of the action.

(4) Subject to the provisions of sub-section (5), the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportion as the Court may direct.

(5) The Court before which any such action is brought may, at any stage of the proceedings, make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule or of the Second Schedule, as the case may be, limiting the liability of a carrier and of any proceedings which have been or are likely to be commenced outside India in respect of the death of the passenger in question.

6. Conversion of francs — Any sum in francs mentioned in rule 22 of the First Schedule or of the Second Schedule, as the case may be,
shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

7. Provisions regarding suits against High Contracting Parties who undertake carriage by air — (1) Every High Contracting Party to the Convention for the amended Convention, as the case may be, who has not availed himself of the provision, of the Additional Protocol thereto shall, for the purposes of any suit brought in a Court in India in accordance with the provisions, or rule 28 of the First Schedule, or of the Second Schedule, as the case may be, to enforce a claim in respect of carriage undertaken by him be deemed to have submitted to the jurisdiction of that Court and to be person for the purposes of the Code of Civil Procedure, 1908 (5 of 1908).

(2) The High Court may make rules of procedure providing for all matters which may be expedient to enable such suits to be instituted and carried on.

(3) Nothing in this section shall authorise any Court to attach or sell any property of a High Contracting Party to the Convention or to the amended Convention.

8. Application of Act to carriage by air which is not international — (1) The Central Government may, by notification in the Official Gazette, apply the rules contained in the First Schedule and any provision of section 3 or section 5 or section 6 to such carriage by air, not being international carriage by air as defined in the First Schedule, as may be specified in the notification, subject, however, to such exceptions adaptations and modifications, if any, as may be so specified.

(2) The Central Government may, by notification in the Official Gazette, apply the rules contained in the Second Schedule and any provision of section 4 or section 5 or section 6 to such carriage by air, not being international carriage by air as defined in the Second Schedule, as may be specified in the notification, subject, however, to such exceptions, adaptations and modifications, if any, as may be so specified.

(3) Every notification issued by the Central Government under section 4 of the Indian Carriage by Air Act, 1934 (20 of 1934) and in force immediately before the commencement of this Act shall be deemed to have been issued under sub-section (1) and shall continue to be in force until such notification is superseded.

9. Repeal — The Indian Carriage by Air Act, 1934 (20 of 1934) is hereby repealed.

THE FIRST SCHEDULE
(See Section 3)

Rules

CHAPTER I
Scope — Definitions

1. (1) These rules apply to all international carriage of persons, luggage or goods performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking.

(2) In these rules “High Contracting party” means a High Contracting Party to the Convention.
(3) For the purpose of these rules the expression, “international carriage” means any carriage in which according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to the Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of these rules.

(4) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not loose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

2. (1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules do not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

Documents of carriage

Part I—Passenger ticket

3. (1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

(a) the place and date of issue;

(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;

(d) the name and address of the carrier or carriers;

(e) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provision of his Schedule which exclude or limit his liability.

Part II—Luggage ticket

4. (1) For the carriage of luggage, other than small personal objects of which the passenger take charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.
The luggage ticket shall contain the following particulars:—

(a) the place and date of issue;
(b) the place of departure and of destination;
(c) the name and address of the carrier of carriers;
(d) the number of the passenger ticket;
(e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
(f) the number and weight of the packages;
(g) the amount of the value declared in accordance with rule 22(2);
(h) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be governed by these rules.

6. (1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.
   (2) The first part shall be marked “for the carrier” and shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

5. (1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an “air consignment note”; every consignor has the right to require the carrier to accept this document.

   (2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule, 9, be none the less governed by these rules.

Part III — Air consignment note

5. (1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an “air consignment note”; every consignor has the right to require the carrier to accept this document.

   (2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall,
(d) the name and address of the consignor;
(e) the name and address of the first carrier;
(f) the name and address of the consignee, if the case so requires;
(g) the nature of the goods;
(h) the number of the packages, the method of packing and the particular marks of numbers upon them;
(i) the weight, the quantity and the volume or dimensions of the goods;
(j) the apparent condition of the goods and of the packing;
(k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
(l) if the goods are sent for payment on delivery, the price of the goods, and if the case so requires, the amount of the expenses incurred;
(m) the amount of the value declared in accordance with rule 22(2);
(n) the number of parts of the air consignment note;
(o) the document handed to the carrier to accompany the air consignment note;
(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
(q) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

9. If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in rule 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this schedule which exclude or limit his liability.

10. (1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

11. (1) The air consignment note is *prima facie* evidence of the conclusion of the contract of the receipt of the goods and of the conditions of carriage.

(2) The Statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and conditions of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

12. (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing or, by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise the right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.
(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his rights of disposition.

13. (1) Except in the circumstances set out in rule 12, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(2) Unless it is otherwise agreed it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given to them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (1) Rules 12, 13, and 14 do not affect either the relations of the consignor or the consignee, with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air consignment note.

16. (1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, in sufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or
any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of sub-rule (1) comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

20. (1) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handing of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may exonerate the carrier wholly or partly from his liability.

22. (1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 1,25,000 francs. Where damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 1,25,000 francs. Nevertheless, by special contract the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned in this rule shall be deemed to refer to the French franc consisting of sixty-five and a half milligrams gold of millesimal fineness nine hundred.

23. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which laid down in these rules shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract which shall remain subject to the provisions of this Schedule.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Schedule.
(2) In the cases covered by rules 17, the provisions of sub-rule (1) also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. (1) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as is in the opinion of the Court equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

26. (1) Receipt by the person entitled to delivery of luggage or goods without complaint is \textit{prima facie} evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the time aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

27. In the case of the death of the person liable, an action for damages lies in accordance with these rules against those legally representing his estate.

28. An action for damages must be brought at the option of the plaintiff, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

29. The right of damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

30. (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (4) of rule 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
(3) As regards luggage or goods, the passenger or consignor, will have the right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV
PROVISIONS RELATING TO COMBINED CARRIAGE

31. (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V
GENERAL AND FINAL PROVISIONS

32. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods, arbitration clauses are allowed, subject to these rules, if the arbitration is to take place in the territory of one of the High Contracting Parties within one of the jurisdictions referred to in rule 28.

33. Nothing contained in this schedule shall prevent carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Schedule.

34. This Schedule does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier’s business.

35. The expression “days” when used in these rules means current days, not working days.

36. When a high Contracting Party has declared at the time of ratification of or of accession to the Convention that sub-rule (1) of rule 2 of these rules shall not apply to international carriage by air performed directly by the State its colonies protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority, these rules shall not apply to international carriage by air so performed.

THE SECOND SCHEDULE
(See Section 4)
RULES
CHAPTER 1
SCOPE—DEFINITIONS

1. (1) These rules apply to all international carriage of persons, baggage or cargo performed by aircraft for reward. They apply equally to gratuitous carriage by aircraft performed by an air transport undertaking.
(2) In these rules, “High Contracting Party” means a High Contracting Party to the amended Convention.

(3) For the purposes of these rules, the expression, “international carriage” means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not High Contracting Party. Carriage between two points within the territory of a single High Contracting Party with an agreed stopping place within the territory of another State is not international carriage for the purposes of these rules.

(4) Carriage to be performed by several successive air carriers is deemed, for the purposes of these rules to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

2. (1) These rules apply to carriage performed by the state or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules shall not apply to carriage of mail and postal packages.

CHAPTER II

DOCUMENTS OF CARRIAGE

Part I — Passenger ticket

3. (1) In respect of the carriage of passengers a ticket shall be delivered containing:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination and within the territory of a single High Contracting Party one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the effect that, if the passenger’s journey involves an ultimate destination or stop in a country other than the country of departure, the amended Convention may applicable and that the amended Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of, or damage to, baggage.

(2) The passenger ticket shall constitute prima facie evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger tickets does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to these rules. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by sub-rule (1) (c) of this rule, the carrier shall not be entitled to avail himself of the provisions of rule 22.
**Part II — Baggage check**

4. (1) In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of sub-rule (1) of rule 3 shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, and indication of at least one such stopping place;

(c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the amended Convention may be applicable and that the amended Convention governs and in most cases limits the liability of carriers in respect of loss of, or damage to, baggage.

(2) The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to these rules. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check [unless combined with or incorporated in the passenger ticket which complies with the provisions of sub-rule (1) (c) of rule 3] does not include the notice required by sub-rule (1) (c) of this rule, he shall not be entitled to avail himself of the provisions of sub-rule (2) of rule 22.

**Part III — Air way bill**

5. (1) Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an “air waybill”; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule 9, be none the less governed by these rules.

6. (1) The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

(2) The first part shall be marked “for the carrier”, and shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

(3) The carrier shall sign prior to the loading of the cargo on board the aircraft.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

7. The carrier of cargo has the right to require the consignor to make out separate waybills when there is more than one package.
8. The airway bill shall contain:

(a) an indication of the places of departure and destination.

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the amended Convention may be applicable and that the amended Convention governs and in most cases limits the liability of carriers in respect of loss of, or damage to, cargo.

9. If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by rule 8(c), the carrier shall not be entitled to avail himself of the provisions of sub-rule (2) of rule 22.

10. (1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air waybill.

(2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.

11. (1) The airway bill is prima facie evidence of the conclusion of the contract of the receipt of the cargo and of the conditions of carriage.

(2) The statements in the air waybill relating to the weight dimensions and packing of the cargo as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carriers except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

12. (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the aerodrome of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the places of destination or in the course of the journey to a person other than the consignee named in the air waybill or by requiring it to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the waybill or the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.
13. (1) Except in the circumstances set out in the preceding rule, the consignee is entitled on arrival of the cargo at the place of destination to require the carrier to hand over to him the air waybill and to deliver the cargo to him, on payment of the charged due and on complying with the conditions of carriage set out in the air waybill.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given to them by rules 12 and 13 each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (1) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air waybill.

(3) Nothing in these rules prevents the issue of a negotiable air waybill.

16. (1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his servants or agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding sub-rule comprises the period during which the baggage or cargo is in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by the sea or by river performed outside an aerodrome. If however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.
19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

20. The carrier is not liable if he proves that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or party from his liability.

22. (1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 2,50,000 francs. Where in accordance with the law of the Court Seized of the case, damages may be awarded in the form of periodical payments the equivalent capital value of the said payments shall not exceed 2,50,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the passengers or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that, that sum is greater than the passenger’s or consignor’s actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier’s liability is limited shall be only the total weight of the packages or packages concerned. Nevertheless, when the loss damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The limits prescribed in this rule shall not prevent the Court from awarding, in accordance with its own law, in addition, the whole or part of the Court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding Court cost and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

(5) The sums mentioned in francs in this rule shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgement.
23. (1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of these rules.

(2) Sub-rule (1) of this rule shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in these rules.

(2) In the cases covered by rule 17 the provisions of the preceding sub-rule also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. The limits of liability specified in rule 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that in the case of such act or omission of a servant or agent, it is also proved that he acting within the scope of his employment.

26. (1) If an action is brought against a servant or agent of the carrier arising out of damage to which these rules relate, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under rule 22.

(2) The aggregate of the amount recoverable from that he acted within the scope of his employment, shall not exceed the said limits.

(3) The provisions of sub-rules (1) and (2) of this rule shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

27. (1) Receipt by the person entitled to delivery of baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty one days from the date on which the baggage or cargo have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

28. In the case of the death of the person liable, an action for damages lies in accordance
with the terms of these rules against those legally representing his estate.

29. (1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.

(2) Questions of procedure shall be governed by the law of the Court seized of the case.

30. (1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the Court seized of the case.

31. (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (3) of rule 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or cargo, the passenger or consignor will have a right or action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV
PROVISIONS RELATING TO COMBINED CARRIAGE

32. (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V
GENERAL AND FINAL PROVISIONS

33. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule,
whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless, for the carriage of cargo arbitration clauses are allowed, subject to these rules, if the arbitration is to take place within one of the jurisdictions referred to in sub-rule (1) of rule 29.

34. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of a carriage, or from making regulations which do not conflict with the provision of this Schedule.

35. The provisions of rules 3 to 9 (inclusive) relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier’s business.

36. The expression “days” when used in these rules means current days, not working days.
CHAPTER VIII

THE TOKYO CONVENTION ACT, 1975

(20 OF 1975)
## CHAPTER VIII

### THE TOKYO CONVENTION ACT, 1975

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To give effect to the Convention of offences and certain other acts committed on board aircraft

WHEREAS a Convention on offences and certain other acts committed on board aircraft was on the Fourteenth day of September, 1963 signed at Tokyo;

AND WHEREAS it is expedient that India should accede to the said Convention and should make provisions for giving effect thereto;

BE it enacted by Parliament in the Twenty-sixth year of the Republic of India as follows -

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement — (1) This Act may be called the Tokyo Convention Act, 1975.

(2) It extends to the whole of India.

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

CHAPTER II
DEFINITIONS

2. Definitions — (1) In this Act, unless the context otherwise requires,—

(a) “aircraft” means any aircraft, whether or not registered in India, other than

(i) a military aircraft; or

(ii) an aircraft belonging to, or exclusively employed in the service of, the State;

(b) “appropriate authority” means —

(i) in relation of India, any police officer not below the rank of an Assistant Sub-Inspector or any Immigration Officer, and

(ii) in relation to any other country, being a Convention country, any officer having functions corresponding to the functions in India either of a police officer not below the rank of an Assistant Sub-Inspector or of an Immigration Officer;

(c) “commander” in relation to an aircraft, means the member of the crew designated as commander of the aircraft by the operator thereof, or failing such a person, the person who is for the time being the pilot-in-command of the aircraft;

(d) “Convention country” means a country in which the Tokyo Convention is for the time being in force;

(e) “Indian registered aircraft” means an aircraft—

(A) which is for the time being registered in India;

(B) which is not for the time being registered in any country but in the case of which either the operator of the aircraft of each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely :—
(i) that he is a person qualified to be owner of a legal or beneficial interest in an aircraft registered in India; and

(ii) that he resides or has his principal place of business of India; or

(C) which, for the time being registered in any country other than India, is for the time being chartered by demise to a person who, or to persons each of whom, satisfies the requirements specified in sub-clause (B) (i) and (ii);

(f) “military aircraft” means an aircraft of the naval, military or air force of any country and includes every aircraft, commanded by a person in naval, military or air force service, detailed for the purpose;

(g) “operator”, in relation to an aircraft at any time, means the person who at that time has the management of the aircraft;

(h) “pilot-in-command”, in relation to an aircraft, means a person who for the time being is in-charge of the piloting of the aircraft without being under the directions of any other pilot in the aircraft and responsible for the operation and safety of the aircraft during flight time;

(i) “Tokyo Convention” means the Convention on offences and certain other acts committed on board aircraft signed at Tokyo on the Fourteenth day of September, 1963;

(j) any reference to a country or to the territorial limits thereof shall be construed as including a reference to the territorial waters, if any, of that country, and any reference to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

(2) For the purposes of this Act, the period during which an aircraft is in flight shall be deemed to include any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run, if any, at the termination of that flight ends; and for the purposes of section 5 the aforesaid period shall also be deemed to include —

(i) any further period from the moment when all external doors, if any, of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation, after that flight;

(ii) if the aircraft makes a forced landing, any period thereafter until the time —

(a) in a case where the forced landing takes place in India, when the appropriate authority arrives at the place of such forced landing; and

(b) in any other case when the appropriate authority takes over the responsibility for the aircraft and for the persons and property on board the aircraft.

CHAPTER III

OFFENCES

3. Application of criminal law to aircraft — (1) Any act or omission taking place on board an Indian registered aircraft while in flight elsewhere than in or over India which, if taking place in India, would constitute an offence under any law in force in India shall constitute that offence:

Provided that this sub-section shall not apply to any act or omission which is expressly...
or impliedly authorised by or under any law of a country outside India, where the aircraft is in flight.

(2) No proceedings for an offence under any law in force in India, committed on board an aircraft while in flight elsewhere than in or over India (other than an offence under the Aircraft Act, 1934), (22 of 1934) shall be instituted except by or with the consent of the Central Government.

(3) Nothing contained in sub-section (2) shall prevent the arrest, or the issue of a warrant for the arrest, of any person in respect of any offence, or the remanding in custody or on bail of any person charged with any offence.

4. Provisions as to Extradition Act — For the purposes of application of the Extradition Act, 1962 (34 of 1962) to crimes committed on board an aircraft in flight, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

5. Powers of commander of aircraft — (1) If the commander of an aircraft in flight, wherever the aircraft may be, has reasonable grounds to believe in respect of any person on board the aircraft —

(a) that the person in question has done or is about to do any act on the aircraft while it is in flight which jeopardises or may jeopardise—

(i) the safety of the aircraft or of persons or property on board the aircraft; or

(ii) the good order and discipline on board the aircraft; or

(b) that the person in question has done on the aircraft while in flight any act which in the opinion of the commander is an offence under any law in force in the country in which the aircraft is registered, not being a law of a political nature or based on racial or religious discrimination,

then, subject to the provisions of sub-section (4), the commander may take with respect to that person such reasonable measures, including restraint of his person, as may be necessary —

(i) to protect the safety of the aircraft or of persons or property on board the aircraft; or

(ii) to maintain good order and discipline on board the aircraft; or

(iii) to enable the commander to disembark or deliver that person in accordance with the provisions of sub-section (5).

(2) The aircraft commander may require the assistance of other crew members and may request, but not require, the assistance of passengers or authorise other crew members and passengers, to restrain any person whom he is entitled to restrain.

(3) Any crew member or passenger also take reasonable preventive measures without any authorisation under sub-section (2) when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

(4) Any restraint imposed on any person on board an aircraft under the powers conferred by the foregoing provisions of the section shall not be continued after the time when the aircraft first thereafter ceases to be in flight unless before or as soon as is reasonably practicable
after that time, the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to the appropriate authority of the country in which the aircraft so ceases to be in flight, but subject to such notification may be continued after that time —

(a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with the provisions of sub-section (5); or

(b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(5) The commander of an aircraft —

(a) if, in the case of any person on board the aircraft, he has reasonable grounds—

(i) to believe as mentioned in clause (a) of sub-section (1); and

(ii) to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft,

may disembark that person in any country in which that aircraft may be; and

(b) if, in the case of any person on board the aircraft, he was reasonable grounds to believe as mentioned in clause (b) of sub-section (1), may deliver that person to the appropriate authority.

(6) The commander of an aircraft —

(a) if he disembarks any person in pursuance of clause (a) of sub-section (5), in the case of an Indian registered aircraft, in any country or, in the case of any other aircraft, in India, shall report the fact of, and the reasons for, that disembarkation to —

(i) the appropriate authority in the country of disembarkation; and

(ii) the appropriate diplomatic or consular officer of the country of nationality of that person;

(b) if he intends to deliver any person in pursuance of clause (b) of sub-section (5) in India; or in the case of an India registered aircraft, in any other country, which is a Convention country, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefore —

(i) to the appropriate authority; and

(ii) in either case, to the appropriate diplomatic or consular officer of the country of nationality of that person;

and any commander of an aircraft who without reasonable cause fails to comply with the requirements of this sub-section shall be liable on summary conviction to a fine not exceeding one thousand rupees.

6. Jurisdiction — (1) For the avoidance of doubt it is hereby declared that for the purpose of any proceedings before a court in India, any court having jurisdiction in respect of piracy committed on the high seas shall have jurisdiction in respect of offences and other acts committed on board an aircraft as described in this Act wherever that offence or act is committed.
For the purposes of conferring jurisdiction, an offence under any law in force in India, committed on board an aircraft in flight shall be deemed to have been committed in any place in India where the offender may for the time being be.

7. Provisions as to evidence in connection with aircraft — (1) Where in any proceedings before a court in India for an offence or other act committed on board an aircraft the testimony of any person is required and the court is satisfied that the person in question cannot be found in India, there shall be admissible in evidence before that court any deposition relating to the subject matter of those proceedings previously made on oath by that person outside India which was so made —

(a) in the presence of the person charged with the offence; and

(b) before a judge or a magistrate of a country such as is mentioned in the First Schedule to the Citizenship Act, 1955 (57 of 1955), or before a consular officer of the Central Government.

(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made and he shall certify that the person charged with the offence was present at the taking of the deposition.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate, and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.

(4) If a complaint is made to such a consular officer as aforesaid that any offence has been committed on an Indian registered aircraft while in flight elsewhere than in or over India, that officer may enquire into the case upon oath.

(5) In this section —

(a) the expression “deposition” includes an affidavit affirmation or statement made upon oath; and

(b) the expression “oath” includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing;

and nothing contained in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

8. Provisions as to documentary evidence — (1) In any legal proceedings under this Act, a document published by the Ministry of the Central Government dealing with Civil Aviation and purporting to be the publication known as “Aeronautical Information Publication” or a publication of the series known as “Notam” and “Aeronautical Information Circular” shall be evidence of the matters appearing from that document.

(2) Any message or signal transmitted to or received from an aircraft which relates to the position of the aircraft will be treated as evidence of certain records and shall apply to any legal proceedings.
CHAPTER IV
MISCELLANEOUS

9. Power to apply the provisions of Act with modifications to certain aircraft — The Central Government may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall apply to an aircraft referred to in sub-clause (B) of clause (e) of sub-section (1) of section 2, subject to such modifications as may be specified in the notification.

10. Contracting Parties to Convention — The Central Government may, by notification in the Official Gazette, certify as to who are the contracting parties to the Tokyo Convention and to what extent they have availed themselves of the provisions of the Convention, and any such notification by the Central Government shall be conclusive evidence of the matters certified therein.

11. Power to treat certain aircraft to be registered in Convention country — If the Central Government is satisfied that the requirements of Article 18 of the Tokyo Convention have been satisfied in relation to any aircraft, it may, by notification in the Official Gazette, direct that such aircraft shall, for the purposes of this Act, be treated as registered in such Convention country as may be specified in the notification.
CHAPTER IX

THE ANTI-HIJACKING ACT, 1982

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CHAPTER IX

THE ANTI-HIJACKING ACT, 1982

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CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement — (1) The Act may be called the Anti—Hijacking Act, 1982.

(2) It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence thereunder committed outside India by any person.

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

2. Definitions — In this Act, unless the context otherwise requires, —

(a) “aircraft” means any aircraft, whether or not registered in India, other than a military aircraft or an aircraft used in customs or police service;

(b) “aircraft registered in India” means an aircraft which is for the time being registered in India;

(c) “Convention country” means a country in which The Hague Convention is for the time being in force;

(d) “Hague Convention” means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on the 16th day of December, 1970;

(e) “military aircraft” means an aircraft of the naval, military, air force or any other armed forces of any country and includes every aircraft commanded for the time being by a person in any such force detailed for the purpose.

CHAPTER II

HIJACKING AND CONNECTED OFFENCES

3. Hijacking — (1) Whoever on board an aircraft in flight, unlawfully, by force or threat of force or by any other form of intimidation, seizes or exercises control of that aircraft, commits the offence of hijacking of such aircraft.

(2) Whoever attempts to commit any of the acts referred to in sub-section (1) in relation to
any aircraft, or abets the commission of any such act, shall also be deemed to have committed the offence of hijacking of such aircraft.

(3) For the purposes of this section, an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country in which such forced landing takes place take over the responsibility for the aircraft and for persons and property on board.

4. Punishment for hijacking — Whoever commits the offence of hijacking shall be punished with imprisonment for life and shall also be liable to fine.

5. Punishment for acts of violence connected with hijacking — Whoever, being a person committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be punished with the same punishment with which he would have been punishable under any law for the time being in force in India if such act had been committed in India.

*5A. Conferment of powers of investigation, etc.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, for the purposes of this Act, the Central Government may, by notification in the Official Gazette, confer on any officer of the Central Government, powers of arrest, investigation and prosecution exercisable by a police officer under the Code of Criminal Procedure, 1973.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1), in the execution of the provisions of this Act.”.

6. Jurisdiction — (1) Subject to the provisions of sub-section (2), where an offence under section 4 or section 5 is committed outside India, the person committing such offence may be dealt with in respect thereof as if such offence had been committed at any place within India at which he may be found.

(2) No court shall take cognizance of an offence punishable under section 4 or section 5 which is committed outside India unless —

(a) such offence is committed on board an aircraft registered in India;

(b) such offence is committed on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business or where he has no such place of business, his permanent residence in India; or

(c) the alleged offender is a citizen of India or is on board the aircraft in relation to which such offence is committed when it lands in India or is found in India.

*6A. Designated Courts — (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify a Court of
Session to be a Designated Court for such area or areas as may be specified in the notification.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Designated Court shall, as far as practicable, hold the trial on a day-to-day basis.

*6B. Offences triable by Designated Courts — (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,

(a) all offences under this Act shall be triable only by the Designated Court specified under sub-section (1) of section 6A;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers, —

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him,

that the detention of such person in unnecessary, he shall order such person to be forwarded to the Designated Court having jurisdiction;

(c) the Designated Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section;

(d) a Designated Court may, upon a perusal of a complaint made by an officer of the Central Government or the State Government as the case may be authorised in this behalf take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Designated Court may also try an offence other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

*6C. Application of Code to proceedings before a Designated Court — Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973, shall apply to the proceedings before a Designated Court and the person conducting a prosecution before a Designated Court shall be deemed to be a Public Prosecutor.

CHAPTER III
MISCELLANEOUS

7. provisions as to extradition — (1) The offences under section 4 and section 5 shall be deemed to have been included as extraditable
offences and provided for in all the extradition treaties made by India with Convention countries and which extend to, and are binding on, India on the date of commencement of this Act.

(2) For the purpose of the application of the Extradition Act, 1962 (34 of 1962) the offences under this Act, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

7A. Provision as to bail — (1) Notwithstanding anything in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless —

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail is specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973, or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal procedure, 1973.

8. Contracting parties to Convention — The Central Government may, by notification in the Official Gazette, certify as to who are the contracting parties to The Hague Convention and to what extent they have availed themselves of the provisions of the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

9. Power to treat certain air-craft to be registered in Convention countries — If the Central Government is satisfied that the requirements of Article 5 of The Hague Convention have been satisfied in relation to any aircraft, it may, by notification in the Official Gazette, direct that such aircraft shall, for the purposes of this Act, be treated as registered in such Convention country as may be specified in the notification.

10. Previous sanction necessary for prosecution — No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Central Government.

10A. Presumptions as to offences under sections 4 and 5 — In a prosecution for an offence under section 4 or section 5 if it is proved —

(a) that the arms, ammunition or explosives were recovered from the possession of the accused and there is reason to believe that such arms, ammunition or explosives of similar nature were used in the commission of such offence; or

(b) that there is evidence of use of force, threat of force or any other form of intimidation caused to the crew or passengers in connection with the commission of such offence,
the Designated Court shall presume, unless the contrary is proved, that the accused had committed such offence.”.

11. Protection of action taken in good faith — (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceedings shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

CHAPTER X

THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF CIVIL AVIATION ACT, 1982

(66 OF 1982)
CHAPTER X

THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF CIVIL AVIATION ACT, 1982

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An Act to give effect to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and for matters connected therewith.

WHEREAS a Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation was, on the 23rd day of September, 1971, signed at Montreal;

AND WHEREAS it is expedient that India should accede to the said Convention and make provisions for giving effect thereto and for matters connected therewith;

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement — (1) This Act may be called the suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982.

(2) It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence under section 3 committed outside India by any person.

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

2. Definitions — (1) In this Act, unless the context otherwise requires, —

(a) “aircraft” means any aircraft, whether or not registered in India, other than a military aircraft or an aircraft used in customs or police service;

(b) “aircraft registered in India” means an aircraft which is for the time being registered in India;

(bb) “airport” means an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934.

(c) “Convention country” means a country in which the Montreal Convention is for the time being in force;

(d) “military aircraft” means an aircraft of the naval, military, air force or any other armed forces of any country and includes every aircraft commanded for the time being by a person in such force detailed for the purpose;


(2) For the purposes of this Act, —

(a) an aircraft shall be deemed to be in flight at any time from the moment when all its
external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country in which such forced landing takes place take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft shall be deemed to be in service from the beginning of the pre-flight preparation of the aircraft by the ground staff or by the crew for a specific flight until twenty-four hours after any landing and the period of such service shall include the entire period during which the aircraft is in flight.

CHAPTER II
OFFENCES

3. Offence of committing violence on board an aircraft in flight, etc. — (1) Whoever unlawfully and intentionally —

(a) commits an act of violence against a person on board an aircraft in flight which is likely to endanger the safety of such aircraft; or

(b) destroys an aircraft in service or causes damage to such aircraft in such a manner as to render it incapable of flight or which is likely to endanger its safety in flight; or

(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) communicates such information which he knows to be false so as to endanger the safety of an aircraft in flight,

shall be punished with imprisonment for life and shall also be liable to fine.

(2) Whoever attempts to commit, or abets the commission of, an offence under sub-section (1) shall also be deemed to have committed such offence and shall be punished with the punishment provided for such offence.

*3A. Offence at airport — (1) Whoever, at any airport unlawfully and intentionally, using any device, substance or weapon, —

(a) commits an act of violence which is likely to cause grievous hurt or death of any person; or

(b) destroys or seriously damages any aircraft or facility at an airport or disrupts any service at the airport, endangering or threatening to endanger safety at that airport, shall be punished with imprisonment for life and shall also be liable to fine.

(2) Whoever attempts to commit, or abets the commission of, any offence under sub-section (1) shall also be deemed to have committed such offence and shall be punished with the punishment provided for such offence.
4. Destruction of, or damage to, air navigation facilities — (1) Whoever unlawfully and intentionally destroys or damages air navigation facilities or interferes with their operation in such a manner as is likely to endanger the safety of the aircraft in flight shall be punished with imprisonment for life and shall also be liable to fine.

(2) Whoever attempts to commit, or abets the commission of, any offence under sub-section (1) shall also be deemed to have committed such offence and shall be punished with the punishment provided for such offence.

5. Jurisdiction — (1) Subject to the provisions of sub-section (2), where an offence under section 3 is committed outside India, the person committing such offence may be dealt with in respect thereof as if such offence had been committed at any place within India at which he may be found.

(2) No court shall take cognizance of an offence punishable under section 3 which is committed outside India unless —

(a) such offence is committed on board an aircraft registered in India;

(b) such offence is committed on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business, or where he has no such place of business, his permanent residence in India; or

(c) the alleged offender is a citizen of India or is on board the aircraft in relation to which such offence is committed when it lands in India or is found in India.

*5A. Conferment of powers of investigation, etc.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, for the purposes of this Act, the Central Government may, by notification in the Official Gazette, confer on any officer of the Central Government, powers of arrest, investigation and prosecution exercisable by a police officer under the Code of Criminal Procedure, 1973.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government referred to in sub-section (1), in the execution of the provisions of this Act.

*5B. Designated Courts — (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify a Court of Session to be a Designated Court for such area or areas as may be specified in the notification.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Designated Court shall, as far as practicable, hold the trial on a day-to-day basis.

*5C. Offences triable by Designated Courts — (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,

(a) all offences under this Act shall be triable only by the Designated Court specified under sub-section (1) of section 5B.
(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers,—

(i) when such person is forwarded to him as aforesaid; or

(ii) upon or at any time before the expiry of the period of detention authorised by him,

that the detention of such person is unnecessary, he shall order such person to be forwarded to the Designated Court having jurisdiction;

(c) the Designated Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section;

(d) a Designated Court may, upon a perusal of a complaint made by an officer of the Central Government or the State Government, as the case may be, authorised in this behalf, take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Designated Court may also try an offence other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

*5D. Application of the Code to proceedings before a Designated Court —
Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973, shall apply to the proceedings before a Designated Court and the person conducting a prosecution before a Designated Court shall be deemed to be a Public Prosecutor.

CHAPTER III
MISCELLANEOUS

6. Provisions as to extradition — (1) The offences under section 3 and section 4 shall be deemed to have been included as extraditable offences and provided for in all the extradition treaties made by India with Convention countries and which extend to, and are binding on, India on the date of commencement of this Act.

(2) For the purposes of the application of the Extradition Act, 1962 (34 of 1962) to offences under this Act, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

*6A. Provision as to bail — (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act shall, if
in custody, be released on bail or on his own bond unless —

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973.

7. Contracting parties to Convention — The Central Government may, by notification in the Official Gazette, certify as to who are the contracting parties to the Montreal Convention and to what extent they have availed themselves of the provisions of the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

8. Power to treat certain aircraft to be registered in Convention countries — If the Central Government is satisfied that the requirements of Article 9 of the Montreal Convention have been satisfied in relation to any aircraft, it may, by notification in the Official Gazette, direct that such aircraft shall, for the purposes of this Act, be treated as registered in such Convention country as may be specified in the notification.

9. Previous sanction necessary for prosecution — No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Central Government.

9A. Presumptions as to offences under sections 3, 3A and 4 — In a prosecution for an offence under sections 3, 3A and 4 if it is proved

(a) that the arms, ammunition or explosives were recovered from the possession of the accused and there is reason to believe that such arms ammunition or explosives of similar nature were used in the commission of such offence; or

(b) that there is evidence of violence committed by the accused against any person in connection with the commission of such offence, the Designated Court shall presume, unless the contrary is proved, that the accused had committed such offence.

10. Protection of action taken in good faith — (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.
CHAPTER XI

NOTIFICATION REGARDING APPLICATION OF THE CARRIAGE BY AIR ACT, 1972, TO CARRIAGE BY AIR WHICH IS NOT INTERNATIONAL
CHAPTER XI

NOTIFICATION REGARDING APPLICATION OF THE CARRIAGE BY AIR ACT, 1972, TO CARRIAGE BY AIR WHICH IS NOT INTERNATIONAL

(MARCH 30, 1973)

Ministry of Tourism and Civil Aviation

S.O. 186(E).— In exercise of the powers conferred by sub-section (2) of section 8 of the Carriage by Air Act 1972 (69 of 1972) and in supersession of the notification of the Government of India in the late Ministry of Transport (Civil Aviation Wing), No. G.S.R. 1967, dated the 17th December, 1963, except as respects things done or omitted to be done, the Central Government hereby directs that with effect from the 1st April 1973, section 4, section 5 and section 6 of that Act and the rules contained in the Second Schedule to that Act shall apply to all carriage by air not being international carriage by air as defined in the said Second Schedule, irrespective of the nationality of the aircraft performing the carriage, subject to the following exceptions, adaptations and modifications, namely:—

1. In the said Act,—
   (i) sub-section (1), (2) and (3) shall be omitted;
   (ii) in sub-section (4) after the words ‘Second Schedule’ the words “as applicable to carriage by Air, not being international carriage by air” shall be inserted;

2. In section 5,—
   (i) in sub-section (1) for the words ‘on the First Schedule and the Second Schedule’, the words “in the Second Schedule as applicable to carriage by air not being international carriage by air” shall be substituted;
   (ii) in sub-section (5) for the portion beginning with the words ‘of the First Schedule’ and ending with the words ‘passenger in question’, the words “of the Second Schedule as applicable to carriage by air, not being international carriage by air’ shall be substituted;

3. section 6 shall be omitted;

4. in the Second Schedule,
   (a) for the brackets, words and figure ‘(See section 4), occurring below the heading ‘Second Schedule’ the brackets and words “(As applicable to carriage by air, not being international carriage)” shall be substituted;
   (b) the word “Definitions” forming part of the heading of Chapter I shall be omitted;
   (c) in rule 1,—
      (i) in sub-rule (1) the word “international” shall be omitted;
      (ii) sub-rule (2) shall be omitted;
      (iii) for sub-rule (3) the following sub-rule shall be substituted, namely:-
“(3) For the purposes of these rules, ‘carriage by air, not being international carriage’ means any carriage in which according to the agreement of the parties, the place of departure and destination are both situated in India and there is no agreed stopping place outside India.”

(iv) in sub-rule (4), the portion beginning with the words ‘whether it had been agreed’ and ending with words ‘within the territory of the same State’ shall be omitted;

(d) for rule 2, the following rule shall be substituted, namely:

“2. These rules shall not apply—
   (i) to carriage by air in any aircraft belonging to, or exclusively employed for the purposes of the armed forces of the Union;
   (ii) to carriage by air, performed by the Government, whether Central or State;
   (iii) to carriage of mails;
   (iv) to carriage by air of persons performed for the purpose of training of such persons;
   (v) to carriage by aircraft belonging to or operated by the Civil Aviation Training Centre of the Government of India or a Club, whose main purpose is to impart training in flying or gliding, whether such aircraft is engaged in carrying persons for the purposes of training or otherwise;
   (vi) to carriage of cargo or persons performed for the purpose of dropping goods from an aircraft;
   (vii) to carriage of employees of the carrier when they are carried for the purpose of performing any duties assigned to them by the carrier on the aircraft.”

(e) in Chapter II, parts I and II containing rules 3 and 4 shall be omitted.

(f) in rule 5,—
   (i) for sub-rule (1), the following sub-rule shall be substituted, namely:

   “(1) Every carrier of cargo has right to require the consignor to make out and hand over to him an air-way-bill”;

   (ii) in sub-rule (2), the word “irregularity” and the words ‘subject to provisions of rule 9’ shall be omitted;

(g) rules 6.8 and 9 shall be omitted;

(h) in rule 10,—
   (i) in sub-rule (1), after the words ‘Air-way-bill’ the words “if any” shall be inserted;
   (ii) in sub-rule (2), the word ‘irregularity’ shall be omitted.

(i) in rule 11,—
   (i) in sub-rule (2), after the word ‘air-way-bill’ the words “if any” shall be inserted;
   (ii) for sub-rule (2), the following sub-rule shall be substituted, namely:

   “(2) Any statements in the air-way-bill relating to the weight, dimensions and packing of the cargo or relating to number of packages, are prima facie evidence of the facts stated; any such statements relating to the quantity, volume and condition
of the cargo do not constitute evidence against the carrier except so far as they both have been and are stated in the air-way-bill to have been checked by him in the presence of the consignor, or relate to the apparent condition of the cargo’;

(j) in rule 12,—

(i) in sub-rule (1) for the words ‘consignee named in the air-way-bill’ the words “original consignee” shall be substituted;

(ii) sub-rule (3) shall be omitted;

(iii) in sub-rule (4), for the words, “the waybill” the words, “air-way-bill, if any” shall be inserted;

(k) in rule 13 in sub-rule (1) for the words “to hand over to him in the air-way-bill and to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage set out in the air-way-bill”, the words “to deliver the cargo to him, on payment of the charges and on complying with the conditions of the contract of carriage”, shall be substituted;

(l) in rule 15,—

(i) for sub-rule (2) the following sub-rule shall be substituted, namely :—

“The provisions of rules 12,13 and 14 can only be varied by express provisions in the air-way-bill or by written agreement between the parties to that effect.”

(ii) in sub-rule (3) after the words ‘negotiable air-way-bill’ the words “if any” shall be inserted.

(m) in rule 16, in sub-rule (1) for the words ‘attach to the air-way-bill such documents as are necessary to meet the formalities of customs’, the words “documents as are necessary to meet the formalities of customs, excise” shall be substituted;

(n) for rule 19, the following rule shall be substituted, namely :—

“19. In the absence of a contract to the contrary the carrier is not to be liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.”

(o) for rule 20, the following rule shall be constituted, namely :—

“20. In the carriage of baggage and cargo the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.”

(p) in rule 22,—

(i) for sub-rule (1) the following sub-rules shall be substituted, namely:—

*“(1) In the event of death of a passenger, or any bodily injury or wound suffered by a passenger which results in a permanent disablement incapacitating him from engaging in or being occupied with his usual duties or business or occupation, the liability of the carrier for each passenger shall be Rs.5,00,000, if the passenger is 12 or more years of age, and Rs.2,00,000, if the passenger is below 12
years of age on the date of the accident. Provided that by special contract, the carrier and the passenger may agree to a higher limit of liability.

(1A) In the event of wounding of a passenger or any bodily injury suffered by the passenger which results in a temporary disablement entirely preventing an injured passenger from attending to his usual duties or business or occupation, the liability of the carrier for each passenger shall be limited to a sum calculated at the rate of Rs.500 per day, the period during which the continues to be so disabled or a sum of Rs.1,00,000, whichever is less."

* (S.O. 659 (E) dated 22nd August, 1989)

(ii) in clause (a) of sub-rule (2) for the figures and words “250 francs” the words “repees three hundred shall be substituted;

(iii) in sub-rule (3) for the figures and words “5,000 francs”, the words “rupees two thousand” shall be substituted;

(iv) sub-rule (5) shall be omitted;

(q) in rule 23, in sub-rule (1) for the words “any provision in a contract of carriage” shall be substituted;

(r) in rule 27,—

(i) in sub-rule (1) for the word “document”, the word “contract” shall be substituted;

(ii) in sub-rule (3), for the words “in writing upon the document of carriage or by separate” the word “by” shall be substituted;

(s) rule 29 shall be omitted;

(t) in rule 32, in sub-rule (2) for the words “inserting in the document of air carriage”, the words “agreeing to special” shall be substituted;

(u) for rule 33 the following rule shall be substituted, namely :—

“33. Any clause contained in the contract and any special agreement entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, shall be null and void. Nevertheless, for the carriage of cargo, arbitration clauses are allowed subject to these rules.

(v) in rule 34 for the word ‘regulations’ the word “stipulations” shall be substituted;

(w) rule 35 is omitted.

Note - The provisions of sections 4,5 and 6 and the rules contained in the Second Schedule as so excepted, adapted and modified are for the convenience of reference set out in the Annexure to this notification.

ANNEXURE

(Sections 4, 5 and 6 Schedule II as excepted, adapted and modified)

4. (1) Omitted.

4. (2) Omitted.

4. (3) Omitted.

4. (4) Any reference in the Second Schedule, as applicable to carriage by air not being international carriage by air, to agents of the carrier shall be construed as including a reference to servants of the carrier.
5. (1) Notwithstanding anything contained in the Indian Fatal Accidents Act, 1855, or any other enactment or rule of law in force in any part of India, the rules contained in the Second Schedule as applicable to the carriage by air, not being international carriage by air, shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger.

(2) The liability shall be enforceable for the benefit of such of the member of the passengers’ family as sustained damage by reason of his death.

Explanation. — In this sub-section the expression ‘member of a family’ means wife or husband, parent, step-parent, grand-parent, brother, sister, half-brother, half-sister, child, step-child and grand child:

Provided that in deducing any such relationship as aforesaid any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

(3) An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under sub-section (2) enforceable, but only one action shall be brought in India in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in India or not being domiciled there express a desire to take the benefit of the action.

(4) Subject to the provisions of sub-section (5), the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportion as the Court may direct.

(5) The Court before which any such action is brought may, at any stage of the proceedings, make any such order as appears to the Court to be just and equitable in view of the provisions of the Second Schedule, as applicable to carriage by air, not being international carriage by air, limiting the liability of a carrier.

THE SECOND SCHEDULE
(As applicable to carriage by air not being international carriage)

RULES
CHAPTER I
SCOPE

1. (1) These rules apply to all carriage of persons, baggage or cargo performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking.

(2) Omitted.

(3) For the purposes of these rules, ‘carriage by air not being international carriage’, means any carriage in which according to the intention of the parties, the place of departure and the place of destination are both situated in India and there is no agreed stopping place outside India.

(4) Carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation.
2. These rules do not apply—

(i) to carriage by air in any aircraft belonging to, or exclusively employed for the purposes of the armed forces of the Union;

(ii) to carriage by air, performed by the Government, whether Central or State;

(iii) to carriage of mails;

(iv) to carriage by air of persons performed for the purpose of training of such persons;

(v) to carriage by aircraft belonging to or operated by the Civil Aviation Training Centre of the Government of India or a Club, whose main purpose is to impact training in flying or gliding, whether such aircraft is engaged in carrying persons for the purposes of training or otherwise;

(vi) to carriage of cargo of persons performed for the purpose of dropping goods from an aircraft;

(vii) to carriage of employees of the carrier when they are carried for the purpose of performing any duties assigned to them by the carrier on the aircraft.

CHAPTER II

DOCUMENTS OF CARRIAGE

Parts I and II containing rules 3 and 4 omitted.

Part III—Air-way-bill

(5) (1) Every carrier of cargo has a right to require the consignor to make out and hand over to him an air-way-bill.

(2) The absence or loss of this document does not affect the existence or the validity of the contract of carriage which shall be nonetheless governed by these rules.

6. Omitted.

7. The carrier of cargo has the right to require the consignor to make out separate air-way-bill when there is more than one package.

8. Omitted.


10. (1) The consignor is responsible for the correctness of the particulars an statement relating to the Cargo which he inserts inn the air-way-bill, if any.

   (2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable by reason of incorrectness or incompleteness of the particulars and statements furnished by the consignor.

11. (1) The air-way-bill, if any, is prima facie evidence of the conclusion of the contract of the receipt of the cargo and the conditions of carriage.

   (2) Any statements in the air-way-bill relating to the weight, dimension and packing of the cargo or relating to a number of packages, are prima facie evidence of the facts stated; any such statements relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air-way-bill to have been checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

12. (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the aerodrome of
departure or destination, or by stopping it in the course of the journey on any landing or by calling for it to be delivered at the place of destination or in the course of journey to a person other than the original consignee or by requiring it to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice to the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor, the carrier must so inform him forthwith.

(3) Omitted.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the air-way-bill, if any, or the cargo, or if it cannot be communicated with, the consignor resumes his right of disposition.

13. (1) Except in the circumstances set out in the preceding rule, the consignee is entitled on arrival of the cargo at the place of destination to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of the contract of carriage.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given to them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (1) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provisions in the air-way-bill or by written agreement between the parties to that effect.

(3) Nothing in these rules prevents the issue of a negotiable air-way-bill, if any.

16. The consignor must furnish such information and documents as are necessary to meet the formalities of customs, excise, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to fault of the carrier or his servants or agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III
LIABILITY OF THE CARRIER

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the
18. (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carrier by air within the meaning of the preceding sub-rule comprises the period during which the baggage or cargo is in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case off a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. In the absence of a contract to the contrary, the carrier is not to be liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

20. In the carriage of baggage and cargo the carrier is not liable if he prove that the damage was occasioned by negligent pilotage or negligence in the handing of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage or that is was impossible for him or them to take such measures.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person, the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

22. (1a) In the event of death of a passenger, or any bodily injury or wound suffered by a passenger which results in a permanent disablement incapacitating him from engaging in or being occupied with his usual duties or business or occupation, the liability of the carrier for each passenger shall be Rs. 7,50,000 if the passenger is 12 or more years of age and Rs. 3,75,000 if the passenger is below 12 years of age on the date of accident;

(Ib) Provided that by special contract, the carrier and the passenger may agree to a higher limit of liability.

(Ic) In the event of wounding of a passenger or any bodily injury suffered by the passenger which results in a temporary disablement entirely preventing an injured passenger from attending to his usual business or occupation or duties, the liability of the carrier for each passenger shall be limited to a sum calculated at the rate of Rs.500 per day, for every day during which he continues to be so disabled or a sum of Rs.1,00,000 whichever is less.

(2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of rupees two hundred per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger’s or consignor’s actual interest in delivery at destination.
(2)(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier’s liability is limited shall be only the total weight of the package or packages concerned. nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air-way-bill the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to rupees two thousand five hundred per passenger.

(4) The limits prescribed in this rule shall not prevent the Court from awarding, in accordance with its own law, in addition, the whole or part of the Court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damage awarded, excluding Court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is latter.

(5) Omitted.

23. (1) Any provision in a contract of carriage tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null void, but the nullity of any such provision does not involve the nullity of the whole contract which shall remain subject to the provisions of these rules.

(2) Sub-rule (1) of this rule shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however, founded, can only be brought subject to the conditions and limits set out in these rules.

(2) In the cases covered by rule 17 the provisions of the preceding sub-rule also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. The limits of liability specified in rule 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

26. (1) If action is brought against a servant or agent of the carrier arising out of damage to which these rules relate, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under rule 22.

(2) The aggregate of the amounts recoverable from the carrier, his servants and agents in that case shall not exceed the said limits.
The provision of sub-rules (1) and (2) of this rule shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

27. (1) Receipt by the person entitled to delivery of baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the contract of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and at the latest within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty one days from the date on which the baggage or cargo have been placed at his disposal.

(3) Every complaint be made by notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

28. In the case of the death of the person liable an action for damages lies in accordance with the terms of these rules against those legally representing his estate.

29. Omitted.

30. (1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the air-craft ought to have arrived, or from, the date of which the carriage stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the count seized of the case.

31. (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (3) of rule 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of the carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the first carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.
CHAPTER IV
PROVISIONS RELATING TO COMBINED CARRIAGE

32. (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air, falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from agreeing to special conditions relating to other modes of carriage, provided that the provisions of the Schedule are observed as regards the carriage by air.

CHAPTER V
GENERAL AND FINAL PROVISIONS

33. Any clause contained in the contract and any special agreement entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule shall be null and void. Nevertheless, for the carriage of cargo, arbitration clauses are allowed subject to these rules.

34. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making stipulations which do not conflict with the provisions of this Schedule.

35. Omitted.

36. The expression “days” when used in these rules means current days, not working days.
MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th December, 2008/Agrahayana 14, 1930 (Saka)

The following Act of Parliament received the assent of the President on the 5th December, 2008, and is hereby published for general information:—

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA ACT, 2008

No. 27 of 2008

[5th December, 2008.]

An Act to provide for the establishment of an Airports Economic Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals and for matters connected therewith or incidental thereto:

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Airports Economic Regulatory Authority of India Act, 2008.

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

(3) It applies to—

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to or subject to the control of the Armed Forces or paramilitary Forces of the Union;
(b) all private airports and leased airports;

(c) all civil enclaves;

(d) all major airports.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "aeronautical service" means any service provided—

(i) for navigation, surveillance and supportive communication thereto for air traffic management;

(ii) for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;

(iii) for ground safety services at an airport;

(iv) for ground handling services relating to aircraft, passengers and cargo at an airport;

(v) for the cargo facility at an airport;

(vi) for supplying fuel to the aircraft at an airport; and

(vii) for a stake-holder at an airport, for which 

the charges, in the opinion of the Central Government for the reasons to be recorded in writing, may be determined by the Authority;

(b) "airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes an aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934;

(c) "airport user" means any person availing of passenger or cargo facilities at an airport;

(d) "Appellate Tribunal" means the Airports Economic Regulatory Authority Appellate Tribunal established under section 17;

(e) "Authority" means the Airports Economic Regulatory Authority established under sub-section (1) of section 3;

(f) "civil enclave" means an area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(g) "Chairperson" means the Chairperson of the Authority appointed under sub-section (2) of section 4;

(h) "leased airport" means an airport in respect of which a lease has been made under section 12A of the Airports Authority of India Act, 1994;

(i) "major airport" means any airport which has, or is designated to have, annual passenger throughput in excess of one and a half million or any other airport as the Central Government may, by notification, specify as such;

(j) "Member" means a Member of the Authority and includes the Chairperson;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "private airport" has the same meaning as assigned to it in clause (m) of section 2 of the Airports Authority of India Act, 1994;

(m) "regulations" means regulations made by the Authority under this Act;

(n) "service provider" means any person who provides aeronautical services and is eligible to levy and charge user development fees from the embarking passengers at any airport and includes the authority which manages the airport;

(o) "stake-holder" includes a licensee of an airport, airlines operating thereat, a person who provides aeronautical services, and any association of individuals, which in the opinion of the Authority, represents the passenger or cargo facility users;
(p) words and expressions used but not defined in this Act and defined in the
Airports Authority of India Act, 1994 shall have the same meanings respectively
assigned to them in that Act.

CHAPTER II
THE AIRPORTS ECONOMIC REGULATORY AUTHORITY

3. (1) The Central Government shall, within three months from the date of
commencement of this Act, by notification in the Official Gazette, establish an Authority, to
be known as the Airports Economic Regulatory Authority, to exercise the powers conferred
on, and the functions assigned to it, by or under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual
succession and a common seal, with power to acquire, hold and dispose of property, both
movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at such place as the Central Government
may, by notification in the Official Gazette, specify.

4. (1) The Authority shall consist of a Chairperson and two other Members to be
appointed by the Central Government:

Provided that whenever the Authority is deciding a matter involving a civil enclave in
a defence airfield, there shall be an additional Member, not below the rank of Additional
Secretary to the Government of India, to be nominated by the Ministry of Defence.

(2) The Chairperson and Members of the Authority shall be appointed by the Central
Government from amongst persons of ability and integrity having adequate knowledge of,
and professional experience in, aviation, economics, law, commerce or consumer affairs:

Provided that a person who is or has been in the service of Government shall not be
appointed as a Member unless such person has held the post of Secretary or Additional
Secretary to the Government of India or any equivalent post in the Central or State Government
for a total period of not less than three years.

(3) The Chairperson and other Members shall be whole-time Members.

(4) The Chairperson or other Members shall not hold any other office.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The Chairperson and other Members of the Authority shall be appointed by the
Central Government on the recommendation of Selection Committee referred to in section 5.

5. (1) The Central Government shall, for the purpose of sub-section (6) of section 4
constitute a Selection Committee consisting of the following, namely:

(a) Cabinet Secretary — Chairman;

(b) Secretary, in the Ministry of Civil Aviation — Member;

(c) Secretary, Department of Legal Affairs in the Ministry of
Law and Justice — Member;

(d) Secretary, in the Ministry of Defence — Member;

(e) One expert to be nominated by the Ministry of Civil Aviation — Member.

(2) The Central Government shall within one month from the date of occurrence of any
vacancy by reason of death, resignation or removal of the Chairperson or a Member and
six months before the superannuation or end of tenure of the Chairperson or any Member,
make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members
within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy
referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member
of the Authority, the Selection Committee shall satisfy itself that such person does not have
any financial or other interest which is likely to affect prejudicially his functions as a Member.
6. (1) The Chairperson and other Members shall hold office, as such, for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that no Chairperson or other Member shall hold office, as such, after attains —

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of any other Member, the age of sixty-two years.

Explanation.—For the purposes of this sub-section, a Member may be appointed Chairperson of the Authority, but a person who has been the Chairperson shall not be eligible for appointment as a Member.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after their appointment.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member may,—

(a) relinquish his office by giving, in writing to the Central Government, a not less than three months; or

(b) be removed from his office in accordance with the provisions of section

(5) The Chairperson or any Member ceasing to hold office, as such, shall—

(a) be ineligible for further employment under the Central Government or State Government for a period of two years from the date he ceases to hold such office; and

(b) not accept any commercial employment including private for a period of two years from the date he ceases to hold such office; or

(c) not represent any person before the Authority in any other manner.

Explanation.—For the purposes of this sub-section,—

(a) “employment under the Central Government or State Government” includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(b) “commercial employment” means employment in any capacity under the agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

7. The Chairperson shall have powers of general superintendence and directions the conduct of the affairs of the Authority and he shall, in addition to presiding over meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

8. (1) The Central Government may, by order, remove from office the Chairperson or other Member, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a Member; or
(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) has engaged at any time during his term of office in any other employment.

(2) The Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehavior or incapacity after the Central Government, has, on an inquiry, held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend any Member in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

9. (1) The Central Government may appoint a Secretary to discharge his functions under this Act.

(2) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Authority and the number of such officers and other employees shall be such as may be prescribed.

(4) The Authority may engage, in accordance with the procedure specified by regulations such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to aviation as it deems necessary to assist the Authority in the discharge of its functions under this Act.

10. (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be determined by regulations.

(2) The Chairperson shall preside at the meeting of the Authority and if for any reason the Chairperson is unable to attend a meeting of the Authority, any other Member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting and, in the event of an equality of votes, the Chairperson or the Member presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (1), every Member shall have one vote.

11. All orders and decisions of the Authority shall be authenticated by signatures of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.

12. No act or proceedings of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

13. (1) The Authority shall perform the following functions in respect of major airports, namely:

(a) to determine the tariff for the aeronautical services taking into consideration—

(1) the capital expenditure incurred and timely investment in improvement of airport facilities;
(ii) the service provided, its quality and other relevant factors;
(iii) the cost for improving efficiency;
(iv) economic and viable operation of major airports;
(v) revenue received from services other than the aeronautical services;
(vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;
(vii) any other factor which may be relevant for the purposes of this Act:

Provided that different tariff structures may be determined for different airports having regard to all or any of the above considerations specified at sub-clauses (i) to (vii);

(b) to determine the amount of the development fees in respect of major airports;
(c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934;
(d) to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf;
(e) to call for such information as may be necessary to determine the tariff under clause (a);
(f) to perform such other functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

(2) The Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so determined.

(3) While discharging its functions under sub-section (1) the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions, inter alia,—

(a) by holding due consultations with all stake-holders with the airport;
(b) by allowing all stake-holders to make their submissions to the authority; and
(c) by making all decisions of the authority fully documented and explained.

14. (1) Where the Authority considers it expedient so to do, it may by order in writing—

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its functions as the Authority may require to access the performance of the service provider; or
(b) appoint one or more persons to make an inquiry in relation to the affairs of any service provider; and
(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1)—

(a) every office of the Government department, if such service provider is a department of the Government; or
(b) every director, manager, secretary or other officer, if such service provider is a company; or
(c) every partner, manager, secretary or other officer, if such service provider is a firm; or
(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) or (c),
shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to monitor the performance of the service providers as it may consider necessary for proper functioning by service providers.

15. The Authority may, for the purpose of discharge of its functions under this Act, issue, from time to time to the service providers, such directions, as it may consider necessary.

16. The Authority or any other officer specially authorised by it in this behalf may enter any building or place where the Authority has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies thereof from subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

CHAPTER IV
APPPELLATE TRIBUNAL

17. The Central Government shall, by notification in the Official Gazette, establish an Appellate Tribunal to be known as the Airports Economic Regulatory Authority Appellate Tribunal to—

(a) adjudicate any dispute—

(i) between two or more service providers;

(ii) between a service provider and a group of consumers:

Provided that the Appellate Tribunal may, if considers appropriate, obtain the opinion of the Authority on any matter relating to such dispute:

Provided further that nothing in this clause shall apply in respect of matters—

(i) relating to the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (J) of section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

(ii) relating to the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under section 9 of the Consumer Protection Act, 1986;

(iii) which are within the purview of the Competition Act, 2002;

(iv) relating to an order of eviction which is appealable under section 28K of the Airports Authority of India Act, 1994.

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

18. (1) The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute as referred to in clause (a) of section 17.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.
(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-section (1), or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

19(1) The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification in the Official Gazette, by the Central Government:

Provided that the Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India or his nominee.

20. A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;

(b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a total period of not less than two years in the Ministries or Departments dealing with aviation or economics or law or a person who is well-versed in the field of aviation or economics or law.

21. The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

(a) in the case of Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-five years.
22. The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

23. If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

24. (1) The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought, on such grounds, to be removed.

(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

25. (1) The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.

26. If the Chairperson and other Members differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

27. The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

28. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
29. (1) The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document, from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it, ex parte;

(h) setting aside any order of dismissal of any application for default or any order passed by it, ex parte; and

(i) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

30. The applicant or appellant may either appear in person or authorises one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959, and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

31. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in section 100 of that Code.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.
(3) Every appeal under this section shall be prefered within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

32. (1) An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

33. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government, for information.

34. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Authority.

35. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

36. (1) The Authority shall furnish to the Central Government, at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require.

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.
CHAPTER VI

OFFENCES AND PENALTIES

37. If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

38. Whoever fails to comply with any order or direction given under this Act, or contravenes, or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of a continuing contravention with an additional fine which may extend to four thousand rupees for every day during which the default continues.

39. If any person wilfully fails to comply with an order of the Authority or of the Appellate Tribunal, passed under Chapter IV, he shall be punishable with fine which may extend to one lakh rupees and, in the case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of a continuing failure, with an additional fine which may extend to four thousand rupees for every day during which such failure continues.

40. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” means a whole-time director in the company and in relation to a firm, means a partner in the firm.

41. (1) Where an offence under this Act has been committed by any Department of Government or any of its undertakings, the Head of the Department or its undertakings shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by any Department of Government or its undertakings and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, or its undertakings, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
CHAPTER VII
MISCELLANEOUS

42. (1) The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section:

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

43. The Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

44. No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

45. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

46. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

47. No court shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

48. The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes and the power to make regulations), as it may deem necessary.

49. (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:
Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) re-constitute the Authority by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment.

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

50. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

51. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) the salary and allowances payable to, and the other conditions of service of, the Chairperson and other Members under sub-section (2) of section 6;

(b) the form and manner in which and the Authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (4) of section 6;

(c) the powers and functions to be exercised or discharged by the Chairperson under section 7;

(d) the procedure for conducting any inquiry made under sub-section (2) of section 8;

(e) the salaries and allowances payable to, and the other terms and conditions of service of the Secretary, officers and other employees of the Authority under sub-section (3) of section 9;

(f) the performance standards relating to the quality, continuity and reliability of service to be monitored under clause (d) of sub-section (1) of section 13;
(g) the books of account or other documents which are required to be maintained by the service provider under sub-section (3) of section 14;

(h) the form and manner in which the form shall be verified and fee to be accompanied by the form under sub-section (3) of section 18;

(i) the salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Appellate Tribunal under section 22;

(j) the salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal under sub-section (3) of section 25;

(k) the matters in respect of which the Authority will have the powers of a civil court under clause (a) of sub-section (2) of section 29;

(l) the form in which the Authority shall prepare, and at such time in each financial year, its budget and the time at which such budget shall be prepared under section 33;

(m) the form in which proper accounts and other relevant records shall be maintained and the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 35;

(n) the form, manner and the time in which the returns and statements shall be furnished by the Authority under sub-section (2) of section 36;

(o) the form and time at which the annual report shall be prepared by the Authority under sub-section (2) of section 36;

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

52. (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely—

(a) the procedure in accordance with which the experts and professionals may be engaged under sub-section (4) of section 9;

(b) the places and time of meetings of the Authority and the procedure to be followed at such meetings, (including the quorum at its meetings) under sub-section (1) of section 10;

(c) any other matter which is required to be, or may be, specified by regulations.

53. Every rule made by the Central Government, and every regulation made by the Authority, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

54. The enactments specified in the Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.
55. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.
THE SCHEDULE
[See section 54]

AMENDMENT TO THE AIRCRAFT ACT, 1934
(22 of 1934)

Section 5, sub-section (2), clause (ab), for “or revision on tariff of operators of air transport services”, substitute “or revision on tariff of operators of air transport services [other than the tariff referred to in clause (a) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008]”.

AMENDMENT TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994
(55 of 1994)

1. Section 22A, for the portion beginning with the words “The Authority may” and ending with the words “for the purposes of — ”, substitute the following:—

“The Authority may,—

(i) after the previous approval of the Central Government in this behalf, levy on, and collect from, the embarking passengers at an airport other than the major airports referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be prescribed;

(ii) levy on, and collect from, the embarking passengers at major airport referred to in clause (h) of section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008,

and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of—”

2. Section 41, in sub-section (2), clause (ee), for “the rate of development fees and”, substitute—

“the rate of development fees in respect of airports other than major airports and”.

T.K. VISWANATHAN,
Secy. to the Govt. of India.