

Schedule XI

Grant of permission to operate schedule air transport services

[See sub-rule(1) and (1A) of rule 134]

[The whole Schedule XI was inserted by G.S.R. No. 1087 dated 19-7-1965]

1. Permission to operate Scheduled air transport services in pursuance of sub rule (1) and (1A) of rule 134 (hereinafter referred to as the permit) may be granted either—

(i) to a citizen of India, or

(ii) to a company or a body corporate provided that—

(a) it is registered and has its principal place of business within India;

(b) the Chairman and at least two-thirds of its Directors are citizens of India; and

(c) its substantial ownership and effective control is vested in Indian nationals.

2. The Director-General shall be the authority to examine the applications for permits and for issuing cancelling or suspending such permits.

3. The Central Government may appoint two or more persons possessing specialised knowledge and experience of Civil Aviation to act as advisers to the Director-General to assist him in the performance of his functions under this Schedule.

4. The Central Government may appoint a Secretary and such other persons as may be considered necessary to assist the Director-General in the discharge of the duties conferred on him by the Schedule. The Secretary and all such persons shall be subordinate to and under the administrative control of the Director-General and form part of his establishment.

5. (1) Every application for a permit shall be made to the Director-General not less than ninety days before the date on which it is desired to commence the service unless the Director-General has appointed a last date for the receipt of applications in which case the applications shall be made on or before that date or such later date as may be fixed by the Director-General.

(2) Every application shall be made in such form and contain such particulars as may be prescribed by the Director-General and shall be signed by the person applying for the permit and, if made by any body corporate, shall be signed by a person duly authorised in that behalf by such body and shall be accompanied by such particulars as may be required for the purposes of this Schedule.

(3) A fee of rupees twenty five thousand shall be payable for making an application under sub-paragraph (1).

(4) A fee of rupees ten lakhs shall be payable for the issue of a permission under paragraph 1 and rupees five lakhs shall be payable for renewal thereof.

(5) The fee shall be paid by Demand Draft drawn in favour of the Pay and Accounts Office, Director General of Civil Aviation, New Delhi.”

6. The Director-General shall cause to be published in the Official Gazette, particulars regarding each application for a permit and the date, not being less than thirty days after the date of publication, on which the application shall be taken into consideration.

7. Any person may, not less than ten days before the date specified for the consideration of the application by the Director-General, make a representation to the Director-General in writing, setting out the specific grounds on which the representation is made. A copy of every such representation shall be sent by the person making it to the applicant for the permit at the same time as it is sent to the Director-General and a certificate to that effect shall be attached to the representation. The Director-General may, at his discretion, give an opportunity to the person making the representation to state his views in the presence of the applicant for the permit. The Director-General may, at his discretion, require any person making a representation under this paragraph to produce evidence in support of any statement he may make.

8.(1) The Director-General shall consider the application for permit and any representation made in respect thereof as speedily as possible and may, at his discretion, either refuse or grant the permit for such period and subject to such conditions as may be specified in the permit. The Director-General may, in his discretion, allow an opportunity to the applicant or his representative, for appearing before him in support of the application and may also give an opportunity to the person or persons making representations against the application to appear before him at the same or different times.

(2) For the disposal of the application, the Director-General shall consider, in particular,

(i) Whether having regard to the applicant's experience and financial resources and his ability to provide satisfactory equipment, organisation and staffing arrangements, and having regard also to any contravention in respect of aircraft operated by him of the provisions of the Aircraft Act, 1934 (22 of 1934) and the rules made thereunder, the applicant is competent and a fit and proper person to operate aircraft on scheduled air transport services;

(ii) the provisions made or proposed to be made against any liability in respect of loss or damage to persons or property which may be incurred in connection with the aircraft operated by the applicant;

(iii) the existing or potential need or demand for the scheduled air transport service applied for ;

(iv) in the case of any scheduled air transport service proposed, the adequacy of any other air transport service already authorised under rule 134;

(v) the extent to which any scheduled air transport service proposed would be likely to result in wasteful duplication of or in material diversion of traffic from any air transport service which is being or is about to be provided under a permission issued under rule 134;

(vi) any capital or other expenditure reasonably incurred or any financial commitment or commercial agreement reasonably entered into, in connection with the operation of aircraft on air transport service by any person (including the applicant);

(vii) if the tariffs for the proposed scheduled air transport service are reasonable; and

(viii) any objections or representations made in accordance with the provisions of this schedule or any other law in force.

(3) The Director-General may, at any time, require the applicant to furnish any information which the Director-General considers necessary for deciding the application. The Director-General may also require the applicant to produce evidence in support of any information that the applicant may have furnished.

9. The permit shall be valid for a period not exceeding five years as may be fixed by the Director-General at the time it is granted.

10. The permit shall contain, among others, the following matters, namely :—

(i) the places at which aircraft may or shall land for traffic or other purposes;

(ii) the aircraft to be used;

(iii) the observance of a schedule of air services approved from time to time by the Director-General;

(iv) the maximum and minimum fares and freight rates to be charged for the transportation of passengers and goods.

11. The grant of permit shall not be construed as in any way absolving any person from the obligation of complying with the provisions of the Aircraft Act, 1934 (22 of 1934), the Carriage by Air Act, 1972 (69 of 1972) or with the rules made there under or with any other statutory provisions.

12. Any schedule air transport service operated in accordance with this schedule shall comply with the safety requirements with respect to air routes, aircraft and aircrew specified by the Director General.

13. (1) The holder of a permit shall maintain an Operations Manual in the form approved by the Director-General.

(2) The Operations Manual shall, in addition to any other relevant information, contain the following particulars, namely :—

(a) instructions outlining the responsibilities of operations personnel pertaining to the conduct of flight operations.

(b) the flight crew for each stage of all routes to be flown including the designation of the succession of command.

(c) in-flight procedure,

(d) emergency flight procedure,

(e) the minimum safe flight altitude for each route to be flown,

(f) the circumstances in which a radio listening watch is to be maintained,

(g) a list of the navigational equipments to be carried,

(h) any other information required to be included by the Director-General.

(3) A copy of the Operations Manual, or such part of the Manual as may be prescribed by the Director-General, shall be carried on all aircraft engaged in scheduled air transport service.

14. All aircraft engaged in scheduled air transport service shall carry a 'Route Guide' which shall, in addition to any other relevant information, contain the following particulars, namely :—

(a) communication facilities, navigation aids and a list of aerodromes, available on the route to be flown,

(b) instrument 'let down' procedure for aerodromes on the route, or, those likely to be used as 'alternates',

(c) meteorological minima for each of the aerodromes on the route to be flown and that are likely to be used as regular or alternate aerodromes,

(d) specific instructions for computation of the quantities of fuel and oil to be carried on each route having regard to all the circumstances of operation, including the possibility of the failure of one or more engines of the aircraft, and

(e) any other information required to be included by the Director-General.

15. (1) If the Director-General is satisfied that there is sufficient ground for doing so, he may, for reasons to be recorded in writing, cancel the permit or suspend it for any specific period. He may also, during the investigation of any matter, suspend the permit.

(2) Without prejudice to the generality of the power in sub-paragraph (1), the Director-General may cancel or suspend the permit for such period as he thinks fit, if he is satisfied—

(a) that any of the conditions of the permit has not been complied with and the failure is due to any wilful act or default on the part of the holder of the permit or by any of his servants, or agents, irrespective of whether or not such wilful act or default of the servant or agent was with the knowledge or approval of the holder of the permit; or

(b) that the holder of the permit has failed to establish a safe, efficient and reliable service; or

(c) that having regard to the financial resources of the holder of the permit or the losses incurred by him, he cannot be relied upon to continue the operation of the service in a safe, efficient and reliable manner; or

(d) that such substantial changes have taken place in regard to the matters specified in sub-paragraph (2) of paragraph 8 as to render it necessary or expedient in the public interest or in the interest of safety to cancel or suspend the permit; or

(e) that the permit was obtained by fraud.

(3) Before any action is taken under sub-paragraph (1) or sub-paragraph (2), the Director-General shall give to the holder of the permit not less than fifteen days' notice in writing specifying the ground or grounds upon which it is proposed to cancel or, as the case may be, suspend the permit and shall give him an opportunity of showing cause either in writing or by appearing in person before the Director-General against the action proposed to be taken.

(4) Notwithstanding anything contained in sub-paragraph (3), the Director-General, may, if he has reason to believe on reliable information that it is expedient in the interest of public safety so to do, summarily suspend the permit with a view to make further enquiry and take action.

(5) The permit shall cease to be in force from the date of such cancellation or suspension unless otherwise directed.

16. The Director-General may, at any time, whether of his own motion or on application made by any party, correct clerical or typographical error in any of his orders arising from any accidental slip or omission.

17. The Director-General shall cause to be published in the Official Gazette his decision regarding cancellation or suspension of the permit.

18. Any permit granted under this Schedule shall not be capable of being transferred or assigned except with the specific permission of the Director-General :

Provided that in the event of death, or bankruptcy of the holder of the permit or of the appointment of a receiver, manager or trustee, in relation to the business of the holder, the person for the time being carrying on that business shall, if he makes an application within 14 days of the said event to the Director-General for a new permit, be entitled to continue the operation of the scheduled air transport service until the application is disposed of, or unless the Director-General has directed otherwise in the interest of public convenience.

19. Nothing herein contained shall be construed as conferring upon the holder of a permit on its expiry any right to the issue of a new permit for the operation of a service on the same route or to the continuance of any other benefits under this Schedule :

Provided, however, that if the holder of a permit applies for a new permit to continue the operation for a further period and if the Director-General is satisfied that the scheduled air transport service has been operated efficiently and in the best interests of the public and that the Corporations or their associates do not propose to operate on the route, the Director-General shall give preference to the holder of the permit.

20. (1) The permit shall be kept at the principal office of the holder thereof and shall be produced for inspection on demand by any Magistrate, any Police Officer not below the rank of a Deputy Superintendent of Police, any officer of customs, any Gazetted officer of the Civil Aviation Department, or any other person authorised by the Central Government or the Director-General by special or general order in writing in this behalf.

(2) A copy of the permit shall be displayed at a conspicuous place in the principal traffic office of the holder of the permit.

(3) On the expiration of a permit, whether by efflux of time or in consequence of a decision of the Director-General under this Schedule or when a permit is suspended by the Director-General, the holder shall surrender the permit to the Director-General for cancellation or endorsement as the case may be.

21. The holder of a permit shall perform such services for the conveyance of mails (with or without officers of the post office in charge thereof) on a scheduled air transport service as the Director-General of Posts and Telegraphs may from time to time require. The remuneration for any service performed in pursuance of such requirement shall be such as may be agreed to between the holder of the permit and the Director-General of Posts and Telegraphs, and in the event of disagreement between them, as may be determined by the Central government upon a reference made to it by either of them.

22. Every person to whom a permit has been granted under this Schedule shall submit to the Director-General in such form as may be prescribed by him :—

(a) monthly returns regarding the operation of the permitted air transport service and other air transport operations so as to reach the Director-General not later than 45 days after the expiry of the month to which the return relates;

(b) annual return showing the financial results of the services or operations during each calendar year so as to reach the Director-General not later than three months after the expiry of the year to which the return relates; and

(c) such other statements or returns as may be required by the Director-General.

23. Any applicant or a holder of a permit, aggrieved by an order of the Director-General rejecting the application, cancelling or suspending such permit, as the case may be, may, within a period of thirty days from the date of such order, prefer an appeal to the Central Government and the decision of the Central Government on such appeal shall be final.

[Amended by (i) G.S.R. No. 412 dated 15-5-3-1971,

(ii) G.S.R. No. 117(E) dated 25-2-1994,

(iii) GSR 413 dated 23-7-2001

(iv) GSR No. 181(E) dated 20-03-2006,

(iv) GSR No. 813 dated 21-11-2008, and

(v) GSR No. 101(E) dated 19-02-2009]