



BHARTIYA VAYUYAN VIDHAYAK BILL

OBJECTIVE

The Bharatiya Vayuyan Vidheyak Bill, 2024 (“**Bill**”) seeks to replace the Aircraft Act, 1934, while retaining most of its provisions. The Bill regulates activities related to aircrafts, such as manufacturing, possession, use, and trade. The Bill also lists specific offences in order to better regulate the aviation sector and introduces a right to a second appeal against decisions concerning penalties imposed for violations any rules formulated by the authorities or the Central Government and empowers the Central Government to appoint an arbitrator for determining compensation in certain cases.

AUTHORITIES

The Bill establishes the Directorate General of Civil Aviation (“**DGCA**”) for safety oversight and regulatory functions, the Bureau of Civil Aviation Security (“**BCAS**”) for aviation security, and the Aircraft Accidents Investigation Bureau (“**AAIB**”) for investigating accidents. These regulatory bodies shall be overseen by the Central Government which shall retain the power to review or modify their orders.

| Particulars | DGCA | BCAS | AAIB |
|-----------------------|---|--|--|
| Responsibility | The DGCA is tasked with ensuring safety, regulatory oversight, and other regulatory functions in the aviation sector. | The BCAS is tasked with implementing regulatory and oversight functions related to civil aviation security. | The AAIB is tasked with investigating aircraft accidents and incidents |
| Headed by | Director General of Civil Aviation | Director General of Civil Aviation | Director General of Civil Aviation |
| Powers | The DGCA regulates the use, maintenance and operations of any aerodrome, aircraft operations, air traffic control, communication, navigation, surveillance, air traffic management facilities and aims to safeguard civil aviation against acts of unlawful interference. | The BCAS may exercise its authority to regulate the use and maintenance of aerodromes, aircraft operations, air-traffic controls, and safeguard aviation against acts of unlawful interference, in the event that the DGCA deems it necessary in the interest of India’s security or to ensure the | The Bill has not provided the powers available to the AAIB. |



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| | | security of civil aviation operations. | |
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POWER OF THE CENTRAL GOVERNMENT

The Bill also vests the Central Government with the following powers:

| POWERS DURING EMERGENCIES TO ENSURE PUBLIC SAFETY | GENERAL POWERS |
|--|--|
| <ul style="list-style-type: none">• Power to cancel or suspend all or any licence, certificate or approval issued under this Bill.• Power to prohibit the flight of all or any aircraft or class of aircraft over the whole or any portion of India.• Power to direct any aircraft, class of aircraft, any aerodrome, etc., to be delivered to an authority, so that it may be at the disposal of Government for public service. | <ul style="list-style-type: none">• Power to detain an aircraft.• Power to prohibit or regulate construction of buildings, planting of trees, etc.• Power to restrict, suspend or cancel licence, certificate.• Power to exempt certain aircrafts from all or any provisions of this Bill.• Power to delegate its authority to the DGCA, BCAS, and the AAIB. |

OFFENSES AND PENALTIES

The Bill has introduced the following offenses:

| OFFENSE | PENALTY | | |
|---|---------------|------------|---|
| | Imprisonment | | Monetary Penalty |
| Any person, who is required to provide information about the carriage of arms, explosives, or other dangerous goods on an aircraft, provides false information. If the offender is not the owner of the goods, the owner may also be held liable unless they can prove that the offence occurred without their | 2 (two) years | AND /OR | INR 1,00,00,000 (Indian Rupees One Crore only) |



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| knowledge, consent, or connivance. | | | |
| Flying an aircraft in a manner that endangers any person or property on land, water, or in the air. | 2 (two) years | AND | INR 1,00,00,000 (Indian Rupees One Crore only) |
| Failure to comply with directions issued by the DGCA or BCAS. | 2 (two) years | /OR | |
| | | AND | INR 1,00,00,000 (Indian Rupees One Crore only) |
| | | /OR | |
| Failure to comply with the Central Government directions to prohibit or regulate construction of buildings, planting of trees | 2 (two) years | AND | INR 1,00,00,000 (Indian Rupees One Crore only) |
| | | /OR | |
| The abetment or attempt to commit an offence by taking actions towards its commission, shall attract the same punishment as prescribed for the offence itself. | N/A | | N/A |

WRECKAGE AND SALVAGE

The Bill states that clauses related to wreckage and salvage contained in Part XIII of the Merchant Shipping Act, 1958, shall also be applicable to aircraft on or over the sea or tidal water, in the same manner as they apply to ships. The owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft in the same manner as owners of ships.

RIGHT TO SECOND APPEAL AND ARBITRATION

Appeal Procedure

Any order passed by the Central Government, or its authorized officer may be appealed in the following manner:





The Bill introduces an additional level of appeal to enhance procedural safeguards. Decisions made by the First Appellate Officer can now be challenged before a Second Appellate Officer who must hold a rank higher than that of the First Appellate Officer

Arbitration

The Central Government has the power to appoint an arbitrator to calculate compensation payable to a person who is caused damages on account of a notification passed by the Central Government to ensure the safety of aircraft operations, under Section 18(1) of the Bill, in the event the Parties are not able to agree on the compensation which should be payable to the affected person.

CONCLUSION

The Bill aims to modernizes and strengthens the governance of civil aviation in India by retaining the core provisions of the Aircraft Act, 1934, while introducing necessary updates to tackle contemporary and future challenges. The Bill also expands the scope of regulatory control to include aircraft design, to adapt to the evolving needs of the aviation sector and introduces more stringent penalties for offences, including the carriage of dangerous goods, non-compliance with directions, and endangerment caused by aircraft operations, showcasing India's commitment to maintain safety and security. The Bill also introduces procedural safeguards in the form of the right to a second appeal. Overall, the Bill represents a comprehensive approach to civil aviation governance by aligning Indian standards with international standards while also addressing the specific requirements of India's growing aviation industry.

This information is provided for general informational purposes only and should not be considered a legal opinion from Sarvaank Associates.

For detailed guidance or further information, please reach out to us at: info@sarvaankassociates.com