

NATIONAL AIRPORTS AUTHORITY ACT, 1985

64 of 1985

[7th December, 1985]

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An Act 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 1

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.

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;

(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;

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

(h) "regulations" means regulations made under this Act; and

CHAPTER 2

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.

(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 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 :-

(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-

(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 :-

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 3

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.

(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.

CHAPTER 4

Property and Contract

13. Transfer of assets and liabilities of the Central Government to 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 regular service: Provided that during the period of deputation of any such employee with the Authority, the Authority shall pay the Central Government

in respect to 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 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.

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 5

Finance, accounts and audit

17. Power of the Authority to charge fees, rent, etc :-

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,-

(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 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 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 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.

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.

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 6

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 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 38) as it may deem necessary. NOTES Where after laying down the legislative policy the executive authority is given power to work out the policy, there is no unconstitutional delegation of power. State of Bihar v. Kameshwar Singh, 1952 SCR 889 : AIR 1952 SC 252 : 1952 SCJ 354 : 1953 SCA 53; Also see Bhatnagars v. Union of India, 1957 SCR 701 ; Mohmedalli v. Union of India, AIR 1964 SC 980; Gopalan v. State of Madras, 1950 SCJ 174. Where the provisions of the challenged Act clearly lay down the policy to be followed by the executive, what is left to the executive is to set up a machinery to implement the legislative policy. There is no delegation of essential legislative power in such cases. Swadeshi Cotton Mills v. State Ind. Trib., (1962) 1 SCR 422 : AIR 1961 SC 1381 : (1963) 1 SCJ 398: (1962) 1 SCA 55 : (1961) 2 LLJ 419 : (1961-62) 20 FJR 325 : (1961) 3 FLR 527.

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, 1860 .

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. NOTES Good Faith.-The term 'good faith' has been defined differently in different enactment, In Section 3(22) of the General Clauses Act, 1897 'good faith' is defined thus: "a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not." In Section 52, I.P.C., "good faith" is defined thus : "Nothing is said to be done or believed in good faith which is done or believed without due care and attention."

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 , on any other enactment for the time being in force relating to income-tax or any other tax or 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.

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 :-

(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 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 aerodrome, civil enclave or aeronautical communication station, 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 aerodrome, civil enclave or 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 or aeronautical communication station, the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such aerodrome, civil enclave or aeronautical communication station 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 aerodrome, civil enclave, aeronautical communication station, the authorised person shall hand over to the Authority any properly (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 :-

(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 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.

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.

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.

(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 section shall have effect until it has been approved by the Central Government and published in the official Gazette. NOTES Force of Law.-Rules and regulations have the force of law. Therefore, writ of Mandamus will be available against administrative or quasi-judicial authority, which refuses to follow the rules. State of U.P.v.Babu Ram, (1961) 2 SCR 679: AIR 1961 SC 751: (1961) 1 SCA 593 : 1961 (1) Cri LJ 773.

39. Supplementary provisions respecting regulations :-

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.

40. 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 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, 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.

41. 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.

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 (43 of 1971)", the words and figures "or the National Airports Authority Act, 1985" shall be inserted.