

AIRCRAFT ACT, 1934

22 of 1934

[9th August, 1934]

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STATEMENT OF OBJECTS AND REASONS "Aerial navigation in British India is at present governed by the Aircraft Act, 1911, and the rules made thereunder. In 1919 an International Convention for the regulation of aerial Navigation was signed by the plenipotentiaries of 27 countries, with the object of establishing regulations of universal application and of encouraging peaceful intercourse with nations by means of aerial communications. To this Convention India was a signatory. The Convention deals with all questions relating to international aerial navigation, and also provides for the institution of a permanent International Commission for Air Navigation with very wide powers as regards the formulation of rules for the marking of aircraft, the grant of certificates, rules of the air and so forth. This Commission meets from time to time to amend, the annexes of the Convention, which contain the detailed rules to be observed by the aircraft of all signatory States and by all aircrafts when within the borders of those States. For some years past the inadequacy of the Aircraft Act, 1911, has been increasingly felt, and the stage has now been reached where it is no longer possible to control air traffic efficiently, or to implement India's international obligations without fresh legislation. The present Bill, therefore, is designed to enlarge the rule making powers of the Governor-General in Council in order to meet modern developments to enable Government to give full effect to the provisions of the International Convention and its annexes, and to provide for certain other matters on which legislation has become necessary". - Gazette of India, 1934, Pt. V, p. 82. Act 44 of 1934.- Section 5 of the Indian Aircraft Act, 1934 inter alia authorises rules being made for the prohibition and regulation of the carriage in aircraft of any specified article or substance, and rule 8 of the Indian Aircraft Rules, 1937 regulates the transport by air of 'dangerous' goods. Cases have occurred where packages containing dangerous have been presented by certain parties for goods carriage by air to operators with a false declaration as to the nature of the contents. While the carriage of such articles can result in loss of human lives and enormous financial loss, the maximum punishment which can be awarded

under section 10 for breach of the said Rule 8 is imprisonment for a term not exceeding three months, or fine of any amount not exceeding Rs. 1000, or both. This punishment is not considered adequate. It is therefore proposed to enhance the punishment for carriage of such goods in contravention of the Indian Aircraft Rules or for giving false information in relation to such goods, and to make the owner also liable in certain cases. -SOR - Gaz. of Ind., 25-8-1960, Pt.II, S. 2, Ext., p.607. Act 12 of 1972.- Due to rapid changes in aviation the last few years, it has become, necessary to amend the Aircraft Act, 1934 suitably to meet with the changed situation.

2. Vultures and other large birds in the vicinity of aerodromes have been a source of considerable damage to costly engines and a grave risk to aircraft operations. Slaughtering animals and dumping rubbish in the vicinity of aerodromes attract birds and thus constitute a potential danger. It is proposed to prohibit, by rules, the slaughtering of animals, dumping of rubbish, etc., within a radius of ten kilometres from the aerodrome reference point.

3. At present unclaimed property found in aerodromes and other places and premises under the control of the Civil Aviation Department is being handed over to the police who normally dispose of such property in accordance with the provisions of the Police Act, 1861. The present system puts the owner of the lost property, who maybe a passenger or an aircraft, to a great inconvenience as it is often difficult for him to contact the police stations. The situation becomes more difficult for a foreigner who is in India only for a short period. It is, therefore, considered that in the interest of the travelling public, the custody and disposal of such lost property be entrusted to aerodrome officers on the analogy of the procedure obtaining in the Railways and Posts and Telegraphs. It is, accordingly, proposed to make a provision in the Act empowering the Central Government to make rules in this regard.

4. Hazards to aircraft operations also arise as a result of constructing buildings and structures in the vicinity of aerodromes, above a certain height. The present procedure of regulating construction of buildings, etc., through municipal bye-laws is cumbersome and is often ineffective. It is proposed to take power to prohibit completely the construction of buildings, erection of structures and planting of trees in the vicinity of aerodromes, that is to say, within such radius not exceeding twenty kilometres from the 'aerodrome reference point' as the Central Government may specify in the notification to be issued for the purpose. It is also proposed to take power to regulate the height of buildings,

structures and trees in the vicinity of aerodromes, that is to say, within such radius not exceeding twenty kilometres from the 'aerodrome reference point' as the Central Government may specify in the notification to be issued for the purpose. Every person sustaining any loss or damage in consequence of any such prohibition or regulation is proposed to be compensated for such loss or damage.

5. Sub-section (1) of section 19 of the Act saves aircraft employed in the naval, military or air forces of the Union from the provisions of any order or rules made under the Act. It is proposed to amend this section so that the health rules made under section 8A and the emergency powers exercised for protecting public health under section 8B could be made applicable to military aircraft coming from yellow fever infected areas. This is considered essential in the interest of public health.

6. The Bill mainly seeks to achieve the above objectives. The other amendments proposed in the Bill are only minor ones which have become necessary from the experience gained in the working of the Act. - SOR. - Gaz. of Ind., 21-12-1971, Pt. II, S.2, Ext.,p.II II91 Act 1 of 1983.-Section 5 of the Aircraft Act, 1934 empowers the (central Government to make rules inter alia for the regulation of air transport services and the authorities by which powers conferred by or under the Act may be exercised. The Committee on subordinate legislation of the Sixth Lok Sabha (12th Report) have recommended that the section might be suitably amended so that the authority expressly flows therefrom for authorising the Director-General of Civil Aviation to approve, disapprove or revise the fares, etc., if the tariffs of operators of air transport services. It is proposed to give effect to this recommendation by amending sub-section (2) of section 5 of the Act so as to enumerate therein expressly the matters mentioned by the Committee and all other important matters regarding the economic regulation of civil aviation and air transport services as matters with respect to which rules may be made under the section.

2. It is proposed to avail of the present opportunity to amend section 14A of the Act relating to laying of rules before Parliament so as to bring the same into conformity with the latest formula on the subject as approved by the Committee on Subordinate Legislation.

3. The Bill seeks to achieve the above objects.- SOR. - Gaz. of Ind., 5-11-1982, Pt.-II, S. 2, Ext.,p. 23 (No. 62). Act 69 of 1985.- Section 14 of the Aircraft Act, 1934, as originally enacted provided that the power to make rules conferred by the Act "is subject to the conditions of the rules being made after previous publication for a period of not less than three

months". As a result of this provision, except in cases falling under section 8B of the Act, it was not possible to make rules for the purposes of the Act without previous publication of the same for a period of not less than three months. 2. In connection with the formal investigation into the accident involving the crash of Air India's, Being 747-237B Aircraft VT-EFO 'Kanishka' on the 23rd June, 1985 in the North Atlantic Sea, the Court holding the investigation recommended that the Aircraft Rules, 1937 should be amended without delay to facilitate the holding of some of the proceedings of the Court in camera. In view of the urgency of the matter and with a view to covering all contingencies in which it may not be practicable to comply with the condition of previous publication for three months, the President promulgated on the 16th October, 1985 the Aircraft (Amendment) ordinance, 1985 for substituting for section 14 of the Act a new Section. The new section retains the condition of previous publication of rules made under the Act without faying down any minimum period of such publication, It also empowers the Central Government to dispense with, in the public interest. The condition of previous publication in any case. 3: The Bill seeks to replace the above ordinance.- SOR. - Gaz. of Ind., 25-11-1985, Pt. II, S. 2 Ext., p. 3 (No. 58).

1. Short title and extent :-

(1) This Act may be called The ¹[xx] Aircraft Act, 1934.

²[(2) It extends to the whole of India ³ [* * *]and applies also:-

(a) to citizens of india, wherever they may be; and

(b) to, and to the persons on, aircraft registered in India wherever they may be.]

1. Word "Indian" omitted by the Aircraft (Amendment) Act (44 of 1960) S 1 (26-11-1960)

2. substituted for the original Clauses (2) by A.L.O. 1950

3. Words except the State of Hyderabad omitted by Part B States (Law) Act (3 of 1951), S. 3 and Sch. (1-4-1951).

2. Definitions :-

In this Act, unless is anything repugnant in the subject or context,-

(1) "aircraft" means any machine which can derive support in the atmosphere from reatons of the air, ¹[Other than reactions of the air against the earth's surface] and includes balloons, whether fixed or free, airships, kites, gliders and flying machines.

(2) "aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or appertaining thereto,

²[(2A) "aerodrome reference point", in relation to any aerodrome, means a designated point established in the horizontal plane at or near the geometric centre of that part of the aerodrome reserved for the departure or landing of aircraft;]

(3) "import" means bringing into ³[India]; and

(4) "export" means taking out of ³ [India].

1. Inserted by the Aircraft (Amendment) Act (12 of 1972), S.2 (20-4-1972).

2. Inserted, by the Aircraft (Amendment) Act (12 of 1972), S.2 (20-4-1972).

3. Substituted for "the Provinces" by the Aircraft (Amendment) Act 24 of 1948), S. 3(12-4-1948).

3. Power of Central Government to exempt certain aircraft

:-

The ¹[Central Government] may; by notification in the ¹[Official Gazette], exempt from ³ [all or any of the provisions of this Act] any aircraft or class of aircraft and any person or class of persons or may direct that such provisions shall apply to such aircraft or persons subject to such modifications as may be specified in the notification.

1. Substituted for "G. G.-in-C." and "Gazette of India" by A. L. O. 1937.

3. Substituted for the words "the provisions of this Act and of the rules made thereunder, or from any of such provisions" by the Aircraft (Amendment) Act (37 of 1939), S. 3 (29-1939).

4. Power of Central Government to make rules to implement the Convention of 1944 :-

¹ .- The Central Government may, by notification in the Official Gazette, make such rules as appear to it to be necessary for carrying out the Convention relating to International Civil Aviation signed at Chicago on the 7th day of December, 1944 (including any Annex thereto relating to international standards and recommended practices) as amended from time to time.]

1. Substituted by the Aircraft (Amendment) Act (12 of 1972), S. 3 (20-4-1972).

5. Power of Central Government to make rules :-

(1) The ¹[Central Government] may, by notification in the ¹[Official Gazette], make rules³regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft ⁴[and for securing the safety of aircraft operation.].

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

(a) the authorities by which any of the powers conferred by or under this Act are to be exercised;

⁵[(aa) the regulation of air transport services, and the prohibition of the use of aircraft in such services except under the authority of and in accordance with a licence authorising the establishment of the service;

⁶[(ab) the economic regulation of civil aviation and air transport services, including the approval, disapproval or revision of tariff of operators of air transport services; the officers or authorities who may exercise powers in this behalf; the procedure to be followed, and the factors to be taken into account by such officers or authorities; appeals to the Central Government against orders of such officers or authorities and all other matters connected with such tariff. Explanation.- For the purposes of this clause, "tariff" includes fares, rates, valuation charges and other charges for air transport of passengers or goods, the rules, regulations, practices or services affecting such fares, rates, valuation charges and other charges and the rate's terms and conditions of commission payable to passenger or cargo sales agents;]

⁵[(ac) the information to be furnished by an applicant for, or the holder of, a licence authorising the establishment of an air transport service to such authorities as may be specified in the rules;]

⁸[(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, 1971⁹[or the National Airports Authority Act, 1985] 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 S.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;]

(c) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are being manufactured, repaired or kept;

(d) the registration and marking of aircraft;

(e) the conditions under which aircraft may be flown, or may carry passengers, mails or goods; or may be used for industrial purposes and the certificates, licences or documents to be carried by aircraft;

(f) the inspection of aircraft for the purpose of enforcing the provisions of this Act and the rules thereunder, and the facilities to be provided for such inspection.

(g) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;

(h), the air-routes by which and, the conditions under which aircraft may enter or leave ¹⁰[India], or may fly over ⁸[India], and the places at which aircraft shall land;

(i) the prohibition of flight by aircraft over any specified area, either, absolutely or at specified times or subject to specified conditions and exceptions;

(j) the supply, supervision and control of air-routes beacons, aerodrome lights, and lights at or in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes;

¹²[(jj) the installation and maintenance .of lights on private property in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes by the owners or occupiers of such property, the payment by the Central Government for such installation and maintenance, and the supervision and control of such installation and maintenance, including the right of access to the property for such purposes;]

(k) the signals to be used for purposes of communication by or to aircraft and the apparatus to be employed in signalling;

(l) the prohibition and regulation of the carriage in aircraft of any

specified article or substance;

(m) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;

(n) the issue and maintenance of log-books; .

(o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension or surrender of such licence or certificate, or of any log-book;

(p) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued or renewed under this Act;

(q) the recognition for the purposes of this Act of licences and certificates issued elsewhere than in ⁸[India] relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft ¹⁴[* *];

¹⁰[(qq) the prohibition of slaughtering and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometres from the aerodrome reference point; and]

(r) any matter subsidiary or incidental to the matters referred to in this sub-section. ¹⁶ [* * * * *]

1. Substituted for the words "Governor-General in Council" and "Gazette of India" by A. L.O. 1937,

3. For Indian Aircraft Rules, 1937, Gaz. of India, 1937, Pt. I, Pp. 633 to 719.

4. Inserted by the Aircraft (Amendment) Act (12 of 1972), S. 4 (20-4-1972).

5. Clauses (aa) and (ab) inserted by the Aircraft (Amendment) Act (5 of 1944), S. 2 (7-3-1944).

6. Clause (ab) re-lettered as clause (ac) thereof and before it as so re-lettered, clause (ab) inserted by the Aircraft (Amendment) Act (1 of 1983), S. 2 (26-3-1983).

8. Substituted by the International Airports Authority Act (43 of 1971), S.41 (26-1-1972).

9. Inserted by the National airports Authority Act (64 of 1985), S. 42 (21-5-1986).

10. Substituted for the words "the Provinces" by the Aircraft (amendment) act (24 of 1948. S. 3 (12-4-1948).

12. Inserted by the Aircraft (Amendment) Act (37 of 1939), S. 4

(29-9-1939).

14. Word "and" omitted and clause (qq) inserted by the Aircraft (Amendment) Act (12 of 1972), S. 4 (20-4-1972).

16. Sub-section (s) omitted by the Aircraft (Amendment) Act (44 of 1960), S. 3 (26-11-1965).

5A. Power to issue directions :-

1 .-

(1) The Director General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order, issue directions, consistent with the provisions of this act and the rules made thereunder, with respect to any of the matters specified, in clauses (b), (c), (e), (f), (g), (h) and (m) of sub-section (2) of section 5 , to any person or persons engaged in aircraft operations or using any aerodrome, in any case where the Director General of Civil Aviation or such other Officer is satisfied that in the interests of the security of India or for securing the safety of aircraft operations it is necessary so to do.

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

1. Inserted by the Aircraft (Amendment) Act (12 of 1972), S.5 (20-4-1972)

6. Power of Central Government to make orders in emergency :-

(1) If the ¹[Central Government] is of opinion that in the interest of the public safety or tranquillity the issue of all or any of the following orders is expedient, ²[[it] may, by notification in the³[Official Gazette]

(a) cancel or suspend, either absolutely or subject to such conditions as ²[it] may think fit to specify in the order, all or any licences or certificates issued under this Act;

(b) prohibit either absolutely or subject to such conditions as ²[it] may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of ¹[India],

(c) prohibit, either absolutely, or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured,

repaired or kept, or any class or description thereof; and

(d) direct that any aircraft or class of aircraft or any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, together with any machinery, plant material or things used for the operation, manufacture, repair or maintenance of aircraft shall be delivered, either forthwith or within a specified time, to such authority and in such manner as ²[it] may specify in the order, to be at the disposal of ⁸[Government] for the public service.

⁹[(1A) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith contained in any rule made under this Act.]

(2) Any person who suffers direct injury or loss by reason of any order made under clause (c) or clause (d) of sub-section (1) shall be paid such compensation as may be determined by such authority as the ³[Central Government] may appoint- in this behalf.

(3) The ³[Central Government] may authorise such steps to be taken to secure compliance with any order made under sub-section (1) as appear to ³[it] to be necessary.

(4) Whoever knowingly disobeys, or fails to comply with, or does any act in contravention of, an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and the Court by which he is convicted may direct that the aircraft or thing (if any) in respect of which the offence has been committed, or any part of such, thing, shall be forfeited to ⁴ [Government].

1. Substituted for the words "the Provinces" by the Aircraft (Amendment) Act (24 of 1948), S. 3 (12-4-1948)

2. Substituted for the words "he", words "G. G. in C" and "Gazette of India" by A.L.O. 1937

3. Substituted for the words "G. G. in C" and "Gazette of India" by A.L.O. 1937

8. Substituted for the words "His Majesty" by A.L.O. 1937.

9. Inserted by the Aircraft (Amendment) Act (12 of 1972), S. 6. (24-1972).

7. Power of Central Government to make rules for investigation of accidents :-

(1) The ¹[Central Government] may, by notification in the [Official

Gazette], make rules providing for the investigation of any accident arising out of or in the course of ²[the navigation-

(a) in or over ³[India]. of any aircraft, or

(b) anywhere of aircraft registered in ³ [India]]

(2) Without prejudice to the generality of the foregoing power, such rules may-

(a) require notice to be given of any accident in such manner and by such person as may be prescribed;

(b) apply for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;

(c) prohibit pending investigation access; to or interference with aircraft to which an accident has occurred, and authorise any person so far as may be necessary for the purposes of an investigation to have access to examine, remove, take measures for the preservation of or otherwise deal with any such aircraft; and

(d) authorise or require the cancellation, suspension, endorsement or, surrender of any licence or certificate granted or recognised under this Act when it appears on an investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

1. Substituted for certain words by A.L.O. 1937.

2. Substituted for the words "air navigation in-or over .British India", by the Aircraft (Amendment) Act; 1939-(37 of 1939), S.5 (29-9-1939)

3. Substituted for the words "the Provinces" by the Aircraft (Amendment) Act, 1948 (24 of 1948), S. 3 (12-4-1948).

8. Power to detain aircraft :-

(1) Any authority authorised in this behalf by the ¹[Central Government] may detain any aircraft, if in the opinion of such authority--

(a) having regard to the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other persons or property, or,

(b) such detention is necessary to secure compliance with any of the provisions of this Act or the rules applicable to such aircraft; or

such detention is necessary to prevent a contravention of any rule made under ²[clause (h) or clause (i) of sub-section (2) of section 5] ³[or to implement any order made by any Court.]

(2) The ¹[Central Government] may, by notification in the ⁵ [Official Gazette] make rules regulating all matters incidental or subsidiary to the exercise of this power.

1. Substituted for the words "G. G .in C" by A.L.O. 1937
2. Reinstated after the lapse of the amendment by substitution made by the Defence of India Act, 1939(35 of 1939),S.6.
3. Inserted by the Aircraft (Amendment) Act(12 of 1972), S. 7 (20-4-1972).
5. Substituted by A. L. O. 1937.

8A. Power of Central Government to make rules for protecting the public health :-

¹.- The ²[Central Government] may, by notification in the ²[Official Gazette make rules⁴ for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of sub-section (1) of S.6 of the Indian Ports Act, 1908, may be made with respect to vessels and ports.]

1. Inserted by the Aircraft (Amendment) Act, 1936 (7 of 1936), S. 2.
2. Substituted for certain words by A.L.O. 1937.
4. See the Indian Aircraft (Public Health) Rules, 1954. Published in Gazette of India, 1955, Pt. II -Sec. 3, p. 2095.

8B. Emergency powers for protecting the public health :-

¹ .-

(1) If the Central Government is satisfied that India or any part thereof is visited by or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient for the prevention of danger arising to the public health through the introduction or spread of the disease by the agency of aircraft, the Central Government may take such measures as it deems necessary to

prevent such danger.

(2) In any such case the Central Government may, without prejudice to the powers conferred by section 8A , by notification in the Official Gazette, make, such temporary rules with respect to aircraft and persons travelling or things carried therein and aerodromes as it deems necessary in the circumstances.

(3) Notwithstanding anything contained in section 14 , the power to make rules under sub-section (2) shall not be subject to the condition of the rules being made after previous publication, but such rules shall not remain in force for more than three months from the date of notification: Provided that the Central Government may by special order continue them in force for a further period or periods of not more than three months in all.]

1. Section 8B was inserted by the Aircraft (Amendment) Act, 1938 (22 of 1938), Section 2 (24-9-1938).

8C. Power of Central Government to make rules for securing safe custody and re-delivery of unclaimed property

:-

¹ .- The Central Government may, by notification in the Official Gazette, make rules which may provide for securing the safe custody and re-delivery of any property which, while not in proper custody is found on any aerodrome or in any aircraft on any aerodrome and any such rules may, in particular, provide for -

(a) the payment of charges in respect of any such property before it is re-delivered to the person entitled there to and:

(b) the disposal of any such property in cases where the same is not re-delivered to the person entitled thereto before the expiration of such period as may be specified therein.]

1. Inserted by the Aircraft (Amendment) Act 12 of 1972, S. 8, (20-4-1972).

9. Wreck and Salvage :-

(1) **¹**[The provisions of Part XIII of the Merchant Shipping Act, 1958] relating to Wreck and Salvage shall apply to aircraft on or over the sea or tidal water as they apply to ships, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft in like manner as the owner of a ship.

(2) The ²[Central Government] may, by notification in the ² [Official Gazette], make such modifications of the said provisions in their application to aircraft as appear necessary or expedient.

1. Substituted for the words and figures "The provisions of Part. VII of the Indian Merchant Shipping Act, 1923" by the Aircraft (Amendment) Act (12 of 1972), S. 9 (20-4-1972).

2. Substituted by A.L.O. 1937.

9A. Power of Central Government to prohibit or regulate construction of buildings, planting of trees etc. :-

1

(1) If the Central Government is of opinion that it is necessary or expedient so to do for the safety of aircraft operations it may by notification² in the Official Gazette,-

(i) direct that no building or structure shall be constructed or erected, or no tree shall be planted on any land within such radius not exceeding twenty kilometres from the aerodrome reference point as may be specified in the notification and where there is any building, structure or tree on such land, also direct the owner or the person having control of such building, structure or tree to demolish such building or structure or, as the case may be, to cut such tree within such period as may be specified in the notification;

(ii) direct that no building or structure higher than such height as may be specified in the notification shall be constructed or erected or no tree, which is likely to grow or ordinarily grows higher than such height as may be specified in the notification shall be planted, on any land within such radius, not exceeding twenty kilometres from the aerodrome reference point, as may be specified in the notification and where the height of any building or structure or tree on such land is higher than the specified height, also direct the owner or the person having control of such building, structure, or tree to reduce the height thereof so as not to exceed the specified height, within such period as may be specified in the notification.

(2) In specifying the radius under clause (i) or clause (ii) of subsection (1) and in specifying the height of any building, structure or tree under the said clause (ii), the Central Government shall have regard to-

(a) the nature of the aircraft operated or intended to be operated in the aerodrome; and

(b) the international standards and recommended practices governing the operation of aircraft.

(3) Where any notification has been issued under sub-section (1) directing the owner or the person having control of any building, structure or tree to demolish such building or structure or to cut such tree or to reduce the height of any building, structure or tree, a copy of the notification containing such direction shall be served on the owner or the person having the control of the building, structure or tree as the case maybe,--

(i) by delivering or tendering it to such owner or person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(iii) by post.

(4) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).

1. Sections 9A to 9D inserted by the Aircraft (Amendment) Act (12 of 1972), S. 10 (20-4-1972)

2. For notification-See S.O. 988/1988-Gaz. of Ind., 26-3-1988, Pt. II, S. 3 (ii), p. 1103.

9B. Payment of compensation :-

(1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 9A , any person sustains any loss or damage, such person shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is or has been qualified for appointment as a Judge of a High Court;

(c) the Central Government may, in any particular case nominate a

person having expert knowledge as to the nature of the lessor damage suffered by the person to be compensated and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the persons to whom such compensation shall be paid and in making the award he shall have regard to the circumstances of each case and,-

(i) the damage sustained by the person to be compensated in his earnings;

(ii) if in consequence of any direction contained in any notification issued under sub-section(1)of section 9A the market value of the land immediately after the issue of such notification is diminished the diminution in such market value;

(iii) where any building or structure has been demolished or any tree has been cut or the height of any building, structure or tree has been reduced in pursuance of any direction, the damage sustained by the person to be compensated in consequence of such demolition, cutting or reduction and the expenses) incurred by such person for such demolition, cutting or reduction;

(iv) if the person to be compensated is compelled to change his residence or place of business, the reasonable expenses, if any, that may have to be incurred by him incidental to such change;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 shall apply to arbitrations under this section.

(2) Every award made by the arbitrator under clause (c) of sub-section (1) shall also state the amount of costs incurred in the

proceedings before it and by what persons and in what proportions they are to be paid.

9C. Appeals from award in respect of compensation :-

Any person aggrieved by an award of the arbitrator made under section 9B may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the aerodrome is situate; Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

9D. Arbitrator to have certain powers of civil Courts :-

The arbitrator appointed under section 9B, while holding arbitration proceedings under this Act, shall have all the powers of a civil Court while trying a suit under the Code of Civil Procedure, 1908 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 any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any Court or office;
- (e) issuing commissions for examination of witnesses.]

10. Penalty for act in contravention of rule made under this Act :-

1 .-

(1) If any person contravenes any provision of any rule made under clause (1) of sub-section (2) of section 5 prohibiting or regulating the carriage in aircraft of arms, explosives or other dangerous goods, or when required under the rules made under that clause to give information in relation to any such goods gives information which is false and which he either knows or believes to be false or does not believe to be true he, and if he is not the owner, the owner also (unless the owner proves that the offence was committed without his knowledge, consent or connivance) shall be punishable with imprisonment which may extend to two years and shall also be liable to fine.

(1A) If any person contravenes any provision of any rule made

under clause (qq) of sub-section (2) of Section 5 prohibiting the slaughter and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matters within a radius of ten kilometres from the aerodrome reference point, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(1B) Notwithstanding anything contained in the Code of Criminal Procedure) 1973 (2 of 1974), an offence referred to in sub-section (1-A) shall be cognizable.

(2) In making any other rule under section 5 or in making any rule under section 7 , section 8 , section 8A or section 8B , the Central Government may direct that a. breach of it shall be punishable with imprisonment for a period which may extend to three months, or with fine which may extend to one thousand rupees, or with both.]

1. Sections 11A and 11B inserted by the Aircraft (Amendment) Act (12 of 1972) S. 11 (20-4-1972).

11. Penalty for flying so as to cause danger :-

Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air Shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

11A. Penalty for failure to comply with directions issued under section 5A :-

¹.-If any person wilfully fails to comply with any direction issued under section 5A , he shall be punishable with imprisonment for a term which may extend to six months or ² "with fine which may extend to ten lakh rupees", or with both.

1. Substituted for the original words by the Aircraft (Amendment) Act, (44 of 1960), S. 5 (26-11-1960)

2. Substituted for "with fine which may extend to one thousand rupees" by

11B. Penalty for failure to comply with directions issued under section 9A :-

(1) If any person wilfully fails to comply with any direction contained in any notification issued under section 9A , he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or

with both.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or structure or cut any tree or fails to reduce the height of any building, structure or tree in pursuance of any direction contained in any notification issued under sub-section (1) of section 9A within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the Central Government in this behalf to demolish such building or structure or cut such tree or reduce the height of such building, structure or tree.]

12. Penalty for abetment of offences and attempted offences :-

Whoever abets the commission of any offence under this Act or the rules, or attempts to commit such offence, and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence.

13. Power of Court to order forfeiture :-

¹ [Where any person is convicted of an offence punishable under sub-section (1) of section 10 or under any rule made under clause (1) of sub-section (2) of section 5] the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to [Government].

1. Substituted by the Aircraft (Amendment) Act (69 of 1985) S. 2 (w.r.e.f. 16-10-1985).

14. Rules to be made after publication :-

¹ .- Any power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication: Provided that the Central Government may, in the public interest, by order in writing, dispense with the condition of previous publication in any case.]

1. Inserted by the Indian Aircraft (Amendment) Act, 1960 (44 of 1960), S. 6 (26-11-1960).

14A. Laying of rules before Parliament :-

¹ .- Every rule 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 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.]

1. Substituted for "the Provinces" by the Aircraft (Amendment) Act, 1948 (24 of 1948), S.3 (12-4-1948).

15. Use of patented invention on aircraft not required in India :-

The provisions of S.42 of the Indian Patents and Designs Act, 1911 shall apply to the use of an invention on any aircraft not registered in ¹ [India] in like manner as they apply to the use of an invention in a foreign vessel.

1. Inserted by the Aircraft (Amendment) Act 12 of 1972, S. 12 (20-4-1972).

16. Power to apply customs procedure :-

Repealed by the Customs Act, 1962 (52 of 1962), S. 160 (I) and Sch. (I-2-1963).]

17. Bar of certain suits :-

No suit shall be brought in any Civil Court in respect of trespass or in respect of nuisance by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, weather and all the circumstances of the case is reasonable, or by reason only of the ordinary incidents of such flight.

18. Saving for acts done in good faith under the Act :-

No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

19. Saving of application of Act :-

(1) Nothing in this Act or in any order or rule made thereunder [other than a rule made under section 8A or under section 8B] shall apply to or in respect of any aircraft belonging to or exclusively employed in [the naval, military or air forces of the Union], or to any person in such forces employed in connection with such aircraft.

(2) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any lighthouse to which the Indian Lighthouse Act, 1927, applies or prejudice or affect any right or power exercisable by any authority under that Act.

20. Repeals :-

Repealed by the Repealing Act 1938 (1 of 1938), S.2 and Schedule.