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Aviation Law: A Legal Paradigm Shift In Airspace Regulation

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Tracing the evolution of India's aviation regulatory framework from the Aircraft Act, 1934 to the Bharatiya Vayuyan Adhiniyam, 2024, this article examines the legal transformation aimed at modernising aviation governance



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The evolution of aviation law in India reflects the national modernisation in the aviation sector. It began with the Aircraft Act, 1934, which established structured regulations for civil aviation during a time when aviation was governed by minimal regulations that could not address the complexities of aerial navigation and safety. The Bharatiya Vayuyan Adhiniyam, 2024, underscored the urgent need for a robust legal framework for the aviation sector.

As India progressed, particularly after the economic liberalisation of the 1990s, significant developments occurred, including the enactment of the Airports Authority of India Act in 1994 and comprehensive guidelines from the Directorate General of Civil Aviation (DGCA). These measures aimed to enhance safety standards and operational efficiency within the rapidly expanding aviation industry. In alignment with international standards like those established by the Montreal Convention, Indian aviation law has continually evolved to protect passenger rights and ensure safety.



A landmark decision in this context is *Joint Action Committee of Airlines Pilots Association of India & Ors v. Director-General of Civil Aviation & Ors* (2011) 5 SCC 435, where the Supreme Court upheld Section 4A of the Aircraft Act and affirmed the DGCA's safety mandate, focussing on strong regulatory oversight, a principle that continues under the BVA as India moves towards becoming a global aviation hub. The introduction of the Bharatiya Vayuyan Adhiniyam 2024, as with effect from January 1, 2025, has replaced the Aircraft Act, reflecting India's commitment to fostering a safe, efficient, and equitable air transport environment while addressing contemporary challenges such as environmental sustainability and cybersecurity.

Comprehensive Analysis Of The Aircraft Act, 1934 And The Bharatiya Vayuyan Adhiniyam, 2024

Introduction

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The Aircraft Act, 1934 had been amended from time to time in the civil aviation sector in India. Keeping in view, the Government of India, the Bharatiya Vayuyan Adhiniyam, 2024, ("BVA") (*In Hindi, Bharatiya Vayuyan Adhiniyam means Act*) signifies a transformative shift in Indian aviation law to address modern challenges while enhancing safety and operational efficiency.

This new legislation not only replaces the provisions of the Aircraft Act, 1934 but also takes care of the emerging issues such as environmental sustainability and cybersecurity. Compared to the previous 20, the BVA aims to strengthen the regulatory framework and ensure the safety and security of the aviation sector.

authorities to enforce compliance effectively. It reflects a broader commitment to aligning with international standards while fostering domestic growth in the aviation sector.

Key Changes In Indian Aviation Law

The Aircraft Act, 1934

India had Aircraft Act which was time to time amended on basis of various International Convention which India entered and subsequently keeping in view the need of Aviation market, the Government of India enacted the Aircraft Act in 1934 and subsequently amended it to allow private sector to participate in management of airforce which was earlier monopoly of Airport Authority of India.

A.) Amendments under the Aircraft Act, 1934

The amendments to the Aircraft Act, 1934 were incremental and largely reactive in nature. They sought to address specific regulatory gaps without substantially altering the overall structure of aviation governance.

Aircraft (Amendment) Bill, 2020

The Aircraft (Amendment) Bill, 2020 was introduced to strengthen the existing regulatory framework under the Aircraft Act, 1934 and served as a precursor to the Bharatiya Vayuyan Adhiniyam, 2024. The Bill focused on enhancing regulatory oversight rather than introducing a comprehensive overhaul.

The key changes proposed under the 2020 Bill included the statutory recognition of the Directorate General of Civil Aviation, the Bureau of Civil Aviation Security, and the Aircraft Accidents Investigation Bureau. It also expanded the rule-making powers of the Central Government under Section 5A in relation to air navigation services, aircraft registration, and air transport operations.

The Bill introduced enhanced penalties for specified offences, including imprisonment of up to two years or a fine up to Rs 10 lakh, or both, for offences such as carriage of dangerous goods. The maximum fine for certain offences was increased to Rs 1 crore. Courts were barred from taking cognisance of offences unless a complaint was filed by the DGCA, BCAS, or AAIB. While these amendments strengthened enforcement, they did not substantially expand the regulatory scope of the parent Act.

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The Bharatiya Vayuyan Adhiniyam, 2024

The Bharatiya Vayuyan Adhiniyam, 2024 replaces the Aircraft Act, 1934 from a limited, operation-centric regulatory model to a comprehensive civil aviation ecosystem. Unlike the earlier Act, the BVA addresses the entire aviation ecosystem, covering not only operations but also design, manufacturing, and regulatory enforcement.

B.) Amendments under the BVA, 2024

The BVA introduces structural changes to aviation regulation by expanding regulatory scope and strengthening enforcement mechanisms.

The Act accords statutory recognition to the Directorate General of Civil Aviation, the Bureau of Civil Aviation Security, and the Aircraft Accidents Investigation Bureau, with clearly defined powers and functions.

The regulatory scope is expanded under Section 4 to expressly include the design, manufacture, maintenance, sale, export, and import of aircraft.

Under Section 5, the Central Government is empowered to prescribe both civil and criminal penalties for violations relating to aircraft operations, international conventions, and accident investigations. Civil penalties may extend up to Rs 1 crore, while criminal penalties include imprisonment for up to two years, a fine up to Rs 1 crore, or both.

Section 6 introduces a structured adjudicatory mechanism, enabling the appointment of adjudicating officers not below the rank of Deputy Secretary. A two-tier appellate mechanism is provided through First and Second Appellate Officers.

The Act also introduces new offences relating to dangerous flying, carriage of hazardous goods, and non-compliance with directions issued by regulatory authorities. Penalties for such offences may extend to imprisonment for up to three years or fines up to Rs 1 crore. Appeals against regulatory decisions lie with the Central Government, with no further statutory appeal.

These changes are aimed at simplifying compliance and enforcement while ensuring that penalties are proportionate and clear. By establishing robust regulatory authorities and delineating specific powers and penalties, the BVA, 2024 enhances the overall safety and accountability of the aviation sector in India, paving the way for a more efficient and secure air travel environment.

Comparative Analysis

Aspect	Aircraft Act, 1934	Bharatiya Vayuyan Adhiniyam, 2024
Legislative Objective	To regulate civil aviation in India at an early stage of development of the aviation industry	To modernise and consolidate aviation regulations and concepts
Legislative Scope	Primarily limited to aircraft operations, licensing and safety	Expanded to include aircraft maintenance, import and export operations

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Number of Sections	20 sections	39 sections
Status of Regulatory Authorities	DGCA, BCAS and AAIB functioned largely as executive bodies exercising delegated powers	DGCA, BCAS and AAIB accorded statutory recognition with clearly defined powers and functions
Regulatory Powers	Regulatory powers fragmented and exercised primarily through delegated legislation with limited statutory clarity	Statutorily defined regulatory and rule-making powers vested in the Central Government with enhanced enforcement authority
Regulation of Aircraft Design, Manufacture and Maintenance	Not expressly regulated under the parent statute	Explicit statutory regulation of aircraft design, manufacture and maintenance
Nature and Quantum of Penalties	Imprisonment up to two years or fine up to Rs 10 lakh	Civil penalties up to Rs 1 crore and criminal penalties including imprisonment up to three years
Nature of Offences	Limited and narrowly defined offences	Expanded offences including dangerous flying, carriage of hazardous goods, non-compliance with regulatory directions and unsafe activities near aerodromes
Regulation of Activities Near Aerodromes	Indirect regulation through rules and notifications	Express statutory power to prohibit hazardous activities in notified aerodrome areas
Adjudication and Appeals	Absence of a structured statutory adjudicatory and appellate framework	Statutory adjudication by designated officers with a structured mechanism
Cognisance of Offences	Courts could take cognisance only upon complaints by DGCA, BCAS or AAIB	Provision for direct cognisance by courts
Central Government Control	Significant supervisory control exercised through delegated legislation	Continued and enhanced statutory power

Conclusion

In conclusion, the evolution from the Aircraft Act of 1934 to the BVA, 2024 marks a significant advancement in India's aviation regulatory landscape. The original Act laid the foundation for civil aviation governance, but as the industry evolved, it became clear that a more modern and comprehensive framework was necessary. The new Act not only addresses contemporary challenges but also empowers regulatory authorities to enhance safety and operational efficiency, reflecting India's commitment to fostering a robust aviation sector.

The article is authored by Krrishan Singhanian (Managing Partner & Founder), Avni Singhanian (Associate), and Smriti Nikam (Research Assistant) at Singhanian & Co. The views expressed are personal and do not necessarily reflect the views of the publication.



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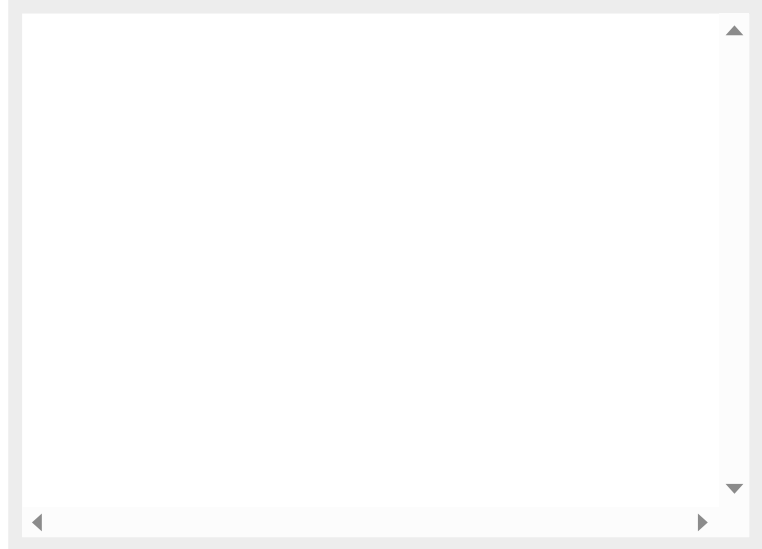
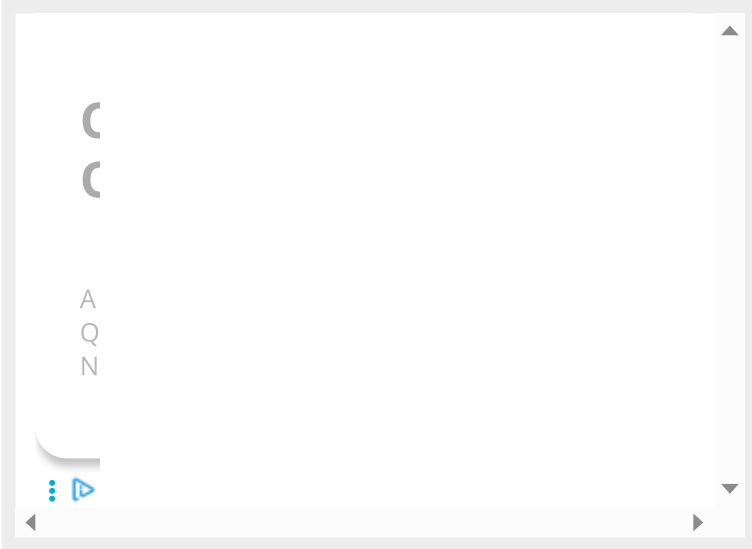


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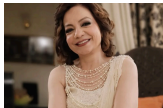
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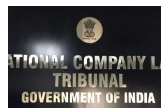
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