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THE CIVIL AVIATION ORDINANCE, 1960

ORDINANCE NO. XXXII OF 1960

[27th July, 1960]

An Ordinance to make better provision for the control of manufacture, possession, use, operation, sale, import and export of aircraft, the control and regulation of air transport services, and the control and development of aerodromes in Bangladesh.*

WHEREAS it is expedient to make better provision for the control of manufacture, possession, use, operation, sale, import and export of aircraft, the control and regulation of air transport services, and the control and development of aerodromes in Bangladesh;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title,
extent and
application

1. (1) This Ordinance may be called the Civil Aviation Ordinance, 1960.

(2) It extends to the whole of Bangladesh, and applies to all citizens of Bangladesh and persons on any aircraft registered in Bangladesh, wherever such citizens or persons may be, and to all persons on any aircraft while in Bangladesh, but nothing in this Ordinance or the rules or in any order made thereunder-

- (a) shall apply to or in respect of any aircraft belonging to or exclusively employed in the naval, military or air force of Bangladesh, or persons employed in connection with any such aircraft, unless the Government, by notification in the *official Gazette*, applies to any such aircraft or person, with or without modification, any of the provisions of this Ordinance or the rules; or

* Throughout this Ordinance, the words “Bangladesh”, “Government” and “taka” were substituted for the words “Pakistan”, “Central Government” and “rupees” respectively by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

- (b) shall apply to or in respect of any lighthouse to which the Lighthouse Act, 1927, applies, or prejudice or affect any right or power exercisable by any authority under that Act.

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

Definitions

- (a) "aerodrome" means any area of land or water designed, equipped, set apart or commonly used or intended to be used, either wholly or in part, for affording facilities for the landing and departure of aircraft, and includes all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto;
- (b) "aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons, whether captive or free, airships, kites, gliders and flying machines;
- (c) "airport" means an aerodrome at which facilities have, in the opinion of the Government, been sufficiently developed to be of importance to civil aviation;
- (d) "air transport service" means a service of aircraft for the purpose of effecting public transport of passengers, goods, mails and other things;
- (e) "commercial flying" means flying for carriage by air of any passenger, mail or goods for hire or reward and such other flying for the purposes of any trade or business as may be specified by the Government and "commercial flight" shall be construed accordingly;
- (f) "export" means taking out of Bangladesh;
- (g) "import" means bringing into Bangladesh;
- (h) "landing area" means the part of the movement area intended for the landing or take off run of aircraft;
- (i) "prescribed" means prescribed by rules;
- (j) "purposes of civil aviation" include all purposes connected with air navigation except purposes of defence by air;
- (k) "rules" means the rules made under this Ordinance.

Power to exempt, etc.

3. The Government may, by notification in the *official Gazette*, either exempt from all or any of the provisions of this Ordinance ¹[or the rules] any aircraft or class of aircraft, and any person or class of persons, or may direct that all or any of such provisions shall apply to any aircraft or person subject to such modifications or conditions as may be specified in the notification.

Power to make rules to implement certain International Conventions

4. Government may, by notification in the *official Gazette*, make such rules as appear to it to be necessary for carrying out the provisions of-

(a) the Convention on International Civil Aviation signed in Chicago on the seventh day of December, 1944, and any amendments of the Convention or annex thereto made in accordance with the provisions of Article 94 of the Convention;

²[(aa) the Convention on International Recognition of Rights in Aircraft signed in Geneva on the nineteenth day of June, 1948, and any amendment thereto;

(aaa) the Convention on Damage caused by Foreign Aircraft to Third Parties on the Surface signed in Rome on the seventh day of October, 1952, and any amendment thereto;]

³[* * *] and

(d) any other treaty, agreement or convention between Bangladesh and any other country or any decision taken at any international body relating to civil aviation.

Power to make rules generally

5. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.

¹ The words "or the rules" were inserted by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

² Clauses (aa) and (aaa) were inserted by section 2 of the Civil Aviation (Amendment) Act, 1988 (Act No. XLIV of 1988).

³ Clauses (b) and (c) were omitted by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for one or more of the following matters, that is to say-

- (a) the authorities by which any of the powers conferred by or under this Ordinance are to be exercised;
- (b) the regulation of air transport services and commercial flying, and the prohibition of the use of aircraft in such services and in commercial flights except under the authority of, and in accordance with, a licence authorising the establishment of any such service or flight;
- (c) 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 prescribed;
- (d) the licensing, inspection and regulation of aerodromes or airports, the conditions under which aerodromes or airports may be maintained, and the fees which may be charged for the use of, and for services provided at, such aerodromes or airports, and the prohibition or regulation of the use of unlicensed aerodromes or air ports, and the regulation of conduct of persons at aerodromes or airports or in the vicinity of aerodromes or airports;
- (e) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where air craft are manufactured, repaired or kept;
- (f) the registration and marking of aircraft;
- ¹[(ff) the hire, charter, lease, hypothecation or mortgage of aircraft;]
- (g) the conditions under which aircraft may be flown, or may carry passengers, goods, mails and other things, or may be used for industrial purposes, and the certificates, licences or documents to be carried by aircraft;
- (h) the inspection or supervision of aircraft for the purpose of enforcing the provisions of this Ordinance and the rules, and the facilities to be provided for such inspection or supervision;

¹ Clause (ff) was inserted by section 3 of the Civil Aviation (Amendment) Act, 1988 (Act No. XLIV of 1988).

- (i) the conditions subject to which persons may be engaged or employed in, or in connection with, air navigation;
- (j) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft and at aerodromes or airports;
- (k) the conditions under which, and the aerodromes or airports to or from which, aircraft entering or leaving Bangladesh may fly, and the conditions under which aircraft may fly over Bangladesh or from one place in Bangladesh to another;
- (l) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times, or subject to specified conditions and exceptions;
- (m) the supply, supervision and control of air-route beacons, aerodrome or airport lights, and lights at or in the neighbourhood of aerodromes or airports and on or in the neighbourhood of air-routes;
- (n) the formulation and observance of uniform standards in respect of obstruction clearances for areas adjoining the landing area at aerodromes and airports;
- (o) the installation and maintenance of lights on private property in the neighbourhood of aerodromes or airports and on or in the neighbourhood of air-routes, by the owners or occupiers of such property, payment by the Government for such installation and maintenance, and supervision and control of such installation and maintenance, including the right of access to the property for such purpose, and the removal of lights, radio and electrical equipment and smoke producing apparatus which may endanger the safety of aircraft in the vicinity of aerodromes or airports;
- (p) the regulation and making of signals and communications by or to aircraft, and by or to persons carried therein;
- (q) the measures to be taken for securing the requirements of obstruction clearance at aerodromes and airports, for the safety, efficiency and regularity of air navigation and the safety of aircraft, passengers, goods, mails and other things carried therein, and for preventing aircraft from endangering other persons and property;
- (r) the prohibition or regulation of carriage in aircraft of any specified article or substance;

- (s) the issue and maintenance of log-books;
- (t) the manner in which and the conditions subject to which any licence or certificate may be issued under this Ordinance or the rules, the examination and tests to be undergone in connection therewith, and the form, custody, production, endorsement, cancellation, suspension or surrender of any such licence or certificate, or of any log-book;
- (u) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued, or renewed under this Ordinance or the rules;
- (v) the recognition, for the purposes of this Ordinance, of licences and certificates issued elsewhere than in Bangladesh relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft;
- (w) the supply, for purposes of air navigation, of meteorological information by persons engaged or employed in connection with air navigation;
- (x) the regulation of the use of the civil air ensign and any other ensign established by the Government in connection with air navigation;
- (y) any matter subsidiary or incidental to matters referred to in this sub-section.

6. (1) In the event of war or other emergency, or in the interests of public safety or tranquility, if the Government is of opinion that the issue of all or any of the following orders is expedient, it may, by notification in the *official Gazette*,-

Power to make orders in times of war or emergency

- (a) cancel or suspend, either absolutely or subject to such conditions as it may think fit to specify in the order, all or any of the licences or certificates issued under this Ordinance or the rules;
- (b) prohibit, either absolutely or subject to such conditions as it may think fit to specify in the order, or regulate in such manner as may be specified in the order, the flight of all or any aircraft or class of aircraft over the whole or any part of Bangladesh;

- (c) prohibit, either absolutely or conditionally, or regulate the construction, maintenance or use of any aerodrome or airport, 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 or airport, 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 forthwith or within a specified time, for being placed at the disposal of the Government, to such authority and in such manner as it may specify in the order.

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

(3) Any person interested in any such aerodrome or airport, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept as is delivered in pursuance of clause (d) of sub-section (1) 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 Government shall appoint as arbitrator a person qualified for appointment as Judge of ¹[the Supreme Court];

¹ The words "the Supreme Court" were substituted for the words "a High Court" by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

- (c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;
- (d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;
- (e) the arbitrator in making his award shall have regard to-
 - (i) the provisions *mutatis mutandis* of ¹[section 9 of the Acquisition and Requisition of Immovable Property Ordinance, 1982]; and
 - (ii) the permanent or temporary nature of the acquisition;
- (f) an appeal shall lie to the ²[High Court Division] against the award of an arbitrator except in cases where the amount thereof does not exceed the amount prescribed in this behalf;
- (g) save as provided in this sub-section or the rules, nothing in any law for the time being in force shall apply to arbitrations under this sub-section.

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

(5) Whoever knowingly disobeys, 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 which may extend to five thousand taka, or with both, and the court by

¹ The words, figures and comma "section 9 of the Acquisition and Requisition of Immovable Property Ordinance, 1982" were substituted for the words, brackets, figures and comma "sub-section (1) of section 23 of the Land Acquisition Act, 1894" by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

² The words "High Court Division" were substituted for the words "High Court" by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

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 the Government.

Power to make rules for investigation of accidents

7. (1) The 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 the navigation-

- (a) in or over Bangladesh, of any aircraft; or
- (b) anywhere, of aircraft registered in Bangladesh.

(2) In particular and 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, an aircraft to which an accident has occurred, and authorize any person, so far as may be necessary for the purposes of 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 recognized under this Ordinance or the rules, if it appears on investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

Power to detain aircraft

8. (1) Any authority authorised in this behalf by the 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 person or property; or

- (b) such detention is necessary to secure compliance with any of the provisions of this Ordinance or the rules or to prevent a contravention of any rule made under clause (i), (j) or (k) of sub-section (2) of section 5.

(2) The Government may, by notification in the *official Gazette*, make rules regulating all matters incidental or subsidiary to the exercise of the powers conferred by sub-section (1).

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

Power to make rules for protecting public health

10. (1) If the Government is satisfied that Bangladesh 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 public health through the introduction or spread of the disease by the agency of aircraft, the Government may take such measures as it deems necessary to prevent such danger.

Emergency powers for protecting public health

(2) In any such case the Government, without prejudice to the powers conferred by section 9, may, by notification in the *official Gazette*, make such provisional rules with respect to aircraft and persons travelling or goods, mails and other things carried therein, and aerodromes or airports, as it deems necessary in the circumstances.

(3) Notwithstanding anything contained in section 15, the power to make rules under sub-section (2) shall not be subject to the condition of previous publication, but such rules shall not remain in force for more than three months from the date of notification:

Provided that the Government may, by special order, continue them in force for a further period or periods of not more than three months in all.

Penalty for flying so as to cause danger

11. Where an aircraft is flown in such manner as may cause unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and, unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, the owner thereof, shall be punishable with imprisonment for a term which may extend to ¹[one year, or with fine which may extend to five thousand taka], or with both.

Explanation.- In this section “owner” in relation to an aircraft includes any person by whom the aircraft is chartered at the time the offence is committed.

Wreck and salvage

12. (1) The provisions of Part VII of the Merchant Shipping Act, 1923, relating to wreck and salvage shall apply to an aircraft in, on or over, the sea or in tidal waters, or on or over the shores of the sea or tidal waters as they apply to ships, and the Government may, by notification in the *official Gazette*, make such modifications of the said provisions in their application to aircraft as appear to it to be necessary or expedient.

(2) Any services rendered in assisting or in saving life from, or in saving the cargo or apparel of an aircraft in, on or over, the sea or in tidal waters, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage in cases in which they would have been salvaged had they been rendered in relation to a ship, and where services are rendered by an aircraft to any property or person, salvour shall be entitled to the same reward for those services as he would have been entitled to had the aircraft been a ship.

¹ The words and comma “one year, or with fine which may extend to five thousand taka” were substituted for the words and comma “six months, or with fine which may extend to one thousand rupees” by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

(3) The provisions of sub-section (2) shall have effect notwithstanding that the aircraft concerned is a foreign aircraft and that the services in question are rendered elsewhere than within the limits of the territorial waters of Bangladesh.

13. The provisions of section 42 of the Patents and Designs Act, 1911, shall apply to the use of an invention on any aircraft not registered in Bangladesh in like manner as they apply to the use of an invention in a foreign vessel.

Use of patent

14. [*Power to apply customs procedure.- Repealed by the Fourth Schedule of the Customs Act, 1969 (Act No. IV of 1969).*]

15. (1) Rules may provide that a breach of any of them shall be punishable with imprisonment for a term not exceeding ¹[one year or with fine not exceeding five thousand taka] or with both.

Provisions relating to rules

(2) Save as provided in sub-section (3) of section 10, any power to make rules conferred by this Ordinance is subject to the condition of previous publication, and a period of not less than three weeks shall have elapsed between such publication and the making of the rules.

(3) Rules may provide that, notwithstanding anything contained in the Code of Criminal Procedure, 1898, or in any other law for the time being in force, any officer specified therein may try in a summary way in accordance with the provisions in sections 262 to 265 of the Code an offence of any breach of, or failure to comply with, any rule for the safety of aircraft, passengers, goods, mails or other things carried therein or for preventing aircraft from endangering other persons or property, or to compound any such offence for a sum not exceeding ²[three thousand taka].

The words "one year or with fine not exceeding five thousand taka" were substituted for the words "three months or with fine not exceeding one thousand rupees" by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

² The words "three thousand taka" were substituted for the words "one thousand rupees" by section 2 of the Civil Aviation Laws Amendment Ordinance, 1985 (Ordinance No. XXIII of 1985).

(4) An officer trying an offence in accordance with the rules made under sub-section (3) shall, for the purpose of the trial, be deemed to be Magistrate of the first class under the Code of Criminal Procedure, 1898, and any sentence passed by such officer shall be deemed to be a sentence passed by such Magistrate.

Penalty for abetment of offences and attempted offences

16. Whoever abets the commission of any offence under this Ordinance 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.

Power of court to order forfeiture

17. Where any person is convicted of an offence for breach of any rule made under clause (l) or clause (r) 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 the Government.

Bar to certain suits

18. 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, whether and all the circumstances of the case is reasonable, or by reason only of the ordinary incidents of such flight.

Protection of acts done in good faith

19. 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 Ordinance or the rules.

20. [*Repeal.- Repealed by section 2 and 1st Schedule of the Repealing and Amending Ordinance, 1965 (Ordinance No. X of 1965).*]
