

Bill Analysis of The Bharatiya Vayuyan Vidheyak, 2024

Background:¹

- India is the fastest growing civil aviation market in the world. It is currently the 3rd largest in the domestic market segment. In the last decade, the number of aircrafts in India has increased from 400 to more than 800 and airports have grown from 74 to 157.
- The government's ambitious schemes like UDAN (Ude Desh ka Aam Nagrik) have enhanced regional connectivity. The scheme is meant to ensure that even remote areas are integrated into the country's aviation network. This scheme is one of the most important components of the National Civil Aviation Policy. Under the UDAN scheme, the airfare for a one-hour journey by a 'fixed wing aircraft' or half an hour's journey by a helicopter for about 500 km, has been fixed at Rs.2500/-. A total of 86 aerodromes— comprising 71 airports, 13 heliports, and 2 water aerodromes— have been operationalized under the UDAN scheme, facilitating the travel of over 1.44 crore passengers across more than 2.8 lakh flights. Since its inception, fixed-wing operations have cumulatively covered approximately 112 crore kilometres, roughly equivalent to circumnavigating the globe around 28,000 times.²

Need for a new Bharatiya Vayuyan Adhiniyam

- **Entry 29, List I (Union List) of the Seventh Schedule under Article 246 of the Constitution of India** states: "*Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.*"³ Civil Aviation is, therefore, part of the Union List.
- The Aircraft Act, 1934 is one of the key laws that govern the civil aviation sector in India. The Act regulates various activities related to civil aviation, and licensing of airports. The

¹ Aviation in India - A Journey Through Time, Asia Pacific Ministerial Conference on Civil Aviation website. Accessed at: <https://www.apacmc.in/Aviation-in-India.php#:~:text=Civil%20aviation%20in%20India%20took,onset%20of%20scheduled%20air%20services>.

² "The Journey of UDAN: Soaring Towards Inclusivity in Indian Aviation", Ministry of Civil Aviation, Government of India. Press Information Bureau, October 20, 2024. Available at: <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2066445#:~:text=A%20total%20of%2086%20aerodromes,flights%20operating%20from%20these%20locations>.

³ The Constitution of India

90-year-old Act has been amended 21 times⁴ which has *inter alia* been there to enhance safety, oversight and to meet requirements for sustainable growth of the aviation sector and to give effect to the provisions of international conventions.

- As a result of numerous amendments over a period of ninety years, a need is felt to address the ambiguities and confusion experienced by the stakeholders, to remove redundancies, to enable ease of doing business and to provide for manufacture and maintenance in the aviation sector. This is also a time when India is one of the fastest growing civil aviation markets in the world.⁵ Therefore, the Government of India decided to re-enact the aforesaid Act, albeit with some modernization and changes, in the form of a new comprehensive Bill, namely, the Bharatiya Vayuyan Vidheyak, 2024.
- The Bharatiya Vayuyan Vidheyak, 2024 was introduced in Lok Sabha on July 31, 2024. The Bill seeks to replace the Aircraft Act, 1934 which regulates the civil aviation sector in India presently.
- The proposed bill mentions the following as its purpose: *"to provide for regulation and control of the design, manufacture, maintenance, possession, use, operation, sale, export and import of aircraft and for matters thereof."*⁶
 - Hon'ble Civil Aviation Minister K Rammohan Naidu mentioned that the bill includes provisions to regulate the design and manufacturing of aircraft, supporting the **Aatmanirbhar Bharat initiative for self-reliance**.⁷

Stated objects and reasons in the bill⁸

- The Bharatiya Vayuyan Vidheyak, 2024, *inter alia*, seeks to— provide for repeal of the Aircraft Act, 1934; empower the Central Government to regulate issuance of Radio Telephone Operator (Restricted) Certificate and licence to provide for ease of business;

⁴ "Lok Sabha clears Bhartiya Vayuyan Vidheyak Bill". *PTI. thehindu.com*. Accessed at: <https://www.thehindu.com/news/national/lok-sabha-clears-bhartiya-vayuyan-vidheyak-bill/article68505453.ece>

⁵ Sinha, S. "Bill seeks to overwrite colonial-era aviation law". *thehindubusinessline.com*. Accessed at: <https://www.thehindubusinessline.com/economy/logistics/bill-seeks-to-overwrite-colonial-era-aviation-law/article68468011.ece>

⁶ The Bharatiya Vayuyan Vidheyak 2024, Bill No. 74 of 2024

⁷ Tripathi, N. "Ram Mohan Naidu tables Aviation bill to replace British-era Act in Lok Sabha". *hindustantimes.com*. Accessed at: <https://www.hindustantimes.com/india-news/ram-mohan-naidu-tables-aviation-bill-to-replace-british-era-act-in-lok-sabha-101722452026860.html>

⁸ The Bharatiya Vayuyan Vidheyak 2024, Bill No. 74 of 2024

provide for payment of compensation for loss or damage; provide for appeal against various matters; and remove ambiguities and redundancies.

Salient features of the Bharatiya Vayuyan Vidheyak 2024⁹

- The bill has a revised definition of “aircraft”. New definition excludes balloons, airships, kites, gliders and flying machines. (***Section 2, sub-section 3***). Under the Aircraft Act 1934 had included “balloons, airships, kites, gliders and flying machines” under the definition of “aircraft”. This has been removed from the proposed Bharatiya Vayuyan Vidheyak 2024.
- The Bill retains the existing regulatory structure with some enhanced powers to the regulatory bodies. Three statutory authorities created under the Aircraft Act 1934 will now be deemed to be created under the Bharatiya Vayuyan Adhiniyam, if and when passed. These are -
 - (1) **Directorate General of Civil Aviation (DGCA)** for performing regulatory functions and overseeing safety;
 - (2) **Bureau of Civil Aviation Security (BCAS)** for overseeing security, and
 - (3) **Aircraft Accidents Investigation Bureau (AAIB)** for investigation of aircraft accidents. The central government may issue directions to these authorities and also review their orders, if necessary and deems fit.
- Some key examples of these enhanced powers are as follows -

<i>Section 10, sub-section 2, clause zc</i>	Regulation for control of obstruction limiting surfaces around an aerodrome or communication and navigation services facility
<i>Section 10, sub-section 2, clause zh</i>	To determine the amount of monetary penalty
<i>Section 10, sub-section 2, clause zd, ze, zf, zg</i>	Safety and security oversight and regulatory functions

⁹ The Bharatiya Vayuyan Vidheyak 2024, Bill No. 74 of 2024

- The Aircraft Act, 1934 allowed the Central Government to impose penalties for contravention of Rules. It empowered the Central Government to appoint an officer for adjudication of penalties. This officer must be of the rank of the Deputy Secretary to Government of India or above. The Act also provided for an appellate mechanism where the appeals against the decisions of the Adjudicating Officer could be made. The appellate authority in this case must be of a higher rank than the Adjudicating Officer. **The proposed Bill retains this structure and adds another level of appeal.** Now, according to the Bill, appeals against the decisions of the First Appellate Officer will lie before the Second Appellate Officer, who must be an officer of a higher rank than the First Appellate Officer. (***Section 33, sub-sections 3 and 4***)
- The proposed Bill adds that appeals against an order of the Director General of Civil Aviation (DGCA) or Bureau of Civil Aviation Security (BCAS) will lie before the Central Government. No further appeal will be allowed against the Central Government's orders. (***Section 33, sub-sections 5 & 6***)
- The Aircraft Act regulates various activities related to aircrafts including manufacturing, possession, use, operation and trade. The proposed Bill, Bharatiya Vayuyan Vidheyak 2024, retains this and adds another aspect - it also seeks to regulate the design of aircrafts. (***Section 10, sub-section 2, clause g***)
- The proposed Bharatiya Vayuyan Vidheyak Bill specifies several offences and penalties which are given as below

<u>Clause</u>	Provision	Penalty
<u>Section 25, sub-section 1</u>	violating rules on carriage of certain prohibited goods in aircrafts such as arms and explosives	imprisonment up to two years, a fine up to one crore rupees, or both
<u>Section 26</u>	flying aircraft in a manner to cause danger to a person or property	imprisonment up to two years, a fine up to one crore rupees, or both
<u>Section 27</u>	failure to comply with directions of DGCA and BCAS	imprisonment up to two years, a fine up to one crore rupees, or both

<u>Section 25,</u> <u>sub-section 2</u>	Violation of Rules prohibiting slaughter and deposit of rubbish near airports	punishable with imprisonment up to three years, a fine up to one crore rupees, or both
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- The Aircraft Act, 1934 empowered the Central Government to make Rules on several matters. These *inter alia* include:
 - (1) Regulation of specified activities related to aircrafts, licensing, inspection etc;
 - (2) Investigation of any accident or incident arising out of or in the course of the navigation;
 - (3) Implementation of Convention relating to International Civil Aviation (ICAO) 1944.

The **proposed bill retains these provisions and adds that** the Central Government may make Rules on the issuance of Radio Telephone Operator (Restricted) Certificate and Licenses under the International Telecommunication Convention as amended from time to time. (**Section 11, sub-section 2**)

Significance of the Bill¹⁰:

- The **modernization of the regulatory framework** is a pivotal aspect of the Bhartiya Vayuyan Vidheyak Bill, 2024. By replacing the outdated Aircraft Act of 1934, the Bill ensures that the governance of India's civil aviation sector is brought in line with contemporary needs. This overhaul streamlines processes, eliminates delays, and provides a more quick and responsive regulatory system, fostering a conducive environment for growth and development.
- The Bill is expected to significantly **attract domestic and foreign investments**, creating new opportunities for infrastructure development and service expansion in the aviation sector. By establishing a regulatory framework that promotes clarity and ease of doing business, the legislation encourages financial inflow, which will be instrumental in bolstering airport capacity, upgrading technologies, and improving service delivery across the nation.

¹⁰ Indian Aerospace and Defence Bulletin, 'The Bhartiya Vayuyan Vidheyak Bill 2024: A Transformative Step For Indian Aviation', accessed at: <https://www.iadb.in/2024/09/02/the-bhartiya-vayuyan-vidheyak-bill-2024-a-transformative-step-for-indian-aviation/>

- A key feature of the Bill is its emphasis on **enhanced safety and security standards**. The introduction of stricter compliance requirements for airlines and airports ensures that passenger safety remains a top priority. It equips regulators to enforce rigorous safety measures and respond swiftly to emergencies, ensuring that Indian aviation meets international benchmarks of safety and operational reliability.
- The inclusion of provisions for **consumer protection** further underscores the Bill's significance. These measures safeguard passenger rights, improve the quality of services offered, and establish efficient grievance redressal mechanisms. By prioritizing consumer welfare, the Bill aims to create a passenger-friendly aviation ecosystem.
- In response to growing **environmental concerns**, the Bill emphasizes sustainable aviation practices. It integrates measures to reduce the environmental impact of aviation activities, encouraging the industry to adopt greener technologies and practices, thus contributing to India's broader climate goals.
- The **Maintenance, Repair, and Overhaul (MRO)** industry is a crucial support sector for aviation, with India's MRO market estimated to be worth \$1.0- \$1.7bn for the commercial aircraft fleet, expected to grow at ~9% annually to reach \$4bn in 2031. Currently, only 15-20% of this market is serviced locally, with the majority (80-85%) being serviced overseas¹¹. The emphasis on **Maintenance, Repair, and Overhaul (MRO)** services aims to establish robust infrastructure for aircraft maintenance in India. This initiative is expected to reduce both the costs and turnaround times associated with maintaining aircraft, while simultaneously driving the growth of the domestic aviation industry. By creating job opportunities and fostering technical expertise, the focus on MRO contributes to the sector's self-reliance and development¹².

Areas of Deliberation:

- The civil aviation sector was opened to private airline operators in 1994. In other sectors such as telecom, electricity, and insurance, private sector participation was allowed since 1991. These sectors have an independent regulator. Unlike them, DGCA is not

¹¹ The Print, What's in new aviation bill introduced to replace 90-yr-old Aircraft Act & why it faced criticism in LS, accessed at: <https://theprint.in/india/governance/whats-in-new-aviation-bill-introduced-to-replace-90-yr-old-aircraft-act-why-it-faced-criticism-in-ls/2201075/>

¹² Impact and Policy Research Institution, Soaring Heights: The Bhartiya Vayuyan Vidheyak Bill, 2024 – Catalyzing India's Aviation Revolution, accessed at: <https://www.impriindia.com/insights/policy-update/the-bhartiya-vayuyan-vidheyak-bill-aviation/>

independent of government control. By retaining provisions that place the DGCA under the central government's superintendence, the new Bill risks undermining the perceived and actual autonomy of the aviation regulator. The central government's ability to modify or cancel DGCA's orders and issue binding directions compromises the regulator's ability to act independently in critical matters, including safety oversight, enforcement of penalties and addressing grievances.

- The Bill allows the central government to specify criminal penalties for violations of certain rules, including aircraft regulation, public health protections, and accident investigations, with penalties of up to two years' imprisonment or fines up to one crore rupees¹³. This delegation raises concerns about violating the principle of separation of powers, as defining offences and penalties is typically the Legislature's role. Unlike the Railways and Metro Railways Acts, which list all offences and penalties within the Act, the Bill leaves significant discretion to the Executive, raising questions about legislative accountability.
- Criticism has sparked from a set of Member of Parliament from Southern states regarding the nomenclature of the Bill, arguing that it poses challenges for South Indian citizens who may not even be able to read the Bill name. This has again sparked the debate over the need for inclusive language policies that adequately reflect India's linguistic diversity. Critics emphasize that legislative processes should embrace multilingual inclusivity to ensure accessibility and representation for all regions of the country¹⁴.

¹³ NDTV, Bhartiya Vayuyan Vidheyak 2024: All You Need To Know About The New Aviation Bill, accessed at: <https://www.ndtvprofit.com/nation/bhartiya-vayuyan-vidheyak-2024-all-you-need-to-know-about-the-new-aviation-bill>

¹⁴ The Print, What's in new aviation bill introduced to replace 90-yr-old Aircraft Act & why it faced criticism in LS, accessed at: <https://theprint.in/india/governance/whats-in-new-aviation-bill-introduced-to-replace-90-yr-old-aircraft-act-why-it-faced-criticism-in-ls/2201075/>