

রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ



গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, ডিসেম্বর ২৮, ২০১৭

Government of the People's Republic of Bangladesh

Ministry of Civil Aviation and Tourism

NOTIFICATION

Dated : 21 December 2017

S.R.O. No. 351-Law/2017.—In exercise of the powers conferred by section 34 of the Civil Aviation Authority Act, 2017, the Government is pleased to publish the following English translation of the Act to be called the Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-section (2) of section 1 of the Act :

THE CIVIL AVIATION AUTHORITY ACT, 2017

(Act No. III of 2017)

[07 Falgun 1423/19 February 2017]

**An Act to repeal and re-enact the Civil Aviation Authority Ordinance, 1985
in a time befitting manner**

WHEREAS, all the Ordinances promulgated by Martial Law Proclamation between the period from 24th March, 1982 to 11th November, 1986 have ceased to have effect due to omission of paragraph 19 of the Fourth Schedule to the Constitution of the People's Republic of Bangladesh regarding ratification and confirmation of the said Ordinances by the Constitution (Fifteenth Amendment) Act, 2011 (Act No. XIV of 2011) and the Constitution (Seventh Amendment) Act, 1986 (Act No. I of 1986) validating the Martial Law being declared void in the judgment pronounced by the Appellate Division of the Supreme Court of Bangladesh declaring the Martial Law unconstitutional in civil petition for Leave to Appeal No. 48/2011; and

(১৮০৭৭)

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WHEREAS, some of those Ordinances are kept in force by the Act No. VII of 2013; and

WHEREAS, the Government has decided to make new laws in Bangla by way of necessary amendment and modification of such Ordinances as may be considered necessary after reviewing the necessity and relevancy of such Ordinances and soliciting opinions thereon from all stakeholders and relevant Ministries or Divisions; and

WHEREAS, in the light of the above-mentioned decision of the Government, it is necessary and expedient to repeal and re-enact the Civil Aviation Authority Ordinance, 1985 (Ordinance No. XXXVIII of 1985) in a time befitting manner;

THEREFORE, it is hereby enacted as follows :—

CHAPTER I GENERAL PROVISIONS

1. Short title, commencement and application.—(1) This Act may be called the Civil Aviation Authority Act, 2017.

(2) It shall come into force at once.

(3) This Act shall not apply to any airport, aerodrome, airfield established for using by defense forces or activities and matters related thereto.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

- (1) “ICAO” means the International Civil Aviation Organization established under the Chicago Convention;
- (2) “Air Navigation Order” or “ANO” means any order issued under this Act for regulating the activities related to aeronautical or non-aeronautical matters;
- (3) “Authority” means the Bangladesh Civil Aviation Authority established under section 3;
- (4) “Chairman” means the Chairman of the Authority;
- (5) “fund” means the fund of the Authority constituted under section 18;
- (6) “regulations” means regulations made under this Act;
- (7) “rules” means rules made under this Act;
- (8) “aircraft” means any machine that can fly deriving support in the atmosphere from reactions of the air, not against the surface of the

- earth, and includes balloons, whether captive or free, airships, kites, drones, gliders and other flying machines;
- (9) “aerodrome” means any specified area of land or water used, either wholly or in part, for landing or arrival, take off or departure and surface movement of aircraft, and also includes any building, establishment and machines thereon or appertaining thereto;
 - (10) “air transport services” means any service provided for the purpose of transporting passengers, goods, mails and other items by air;
 - (11) “special inspector” means such inspector as especially expert in inspection;
 - (12) “airport” means an aerodrome at which sufficient facilities have been developed considering the importance of civil aviation;
 - (13) “civil aircraft” means any aircraft other than state aircraft;
 - (14) “civil aviation” means any general or commercial aviation or operation of any civil aircraft for the purpose of any aerial work;
 - (15) “Board” means the Board constituted under section 9;
 - (16) “Chicago Convention” means the Convention of International Civil Aviation signed in 1944 at Chicago in United States of America;
 - (17) “member” means a member of the Authority.

CHAPTER II

ESTABLISHMENT OF AUTHORITY, ETC.

3. Establishment of Authority.—(1) For carrying out the purposes of this Act, Civil Aviation Authority established under the Civil Aviation Authority Ordinance, 1985 (Ordinance No. XXXVIII of 1985) shall have effect in such way as if it had been established under this Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. Powers and functions of the Authority.—The powers and functions of the Authority shall be the following, namely :—

- (a) to manage, plan, construct, operate and repair of all civil airports and aerodromes including their surrounding airspace, subject to the provisions of other laws for the time being in force, and control of all navigable air routes in the airspace of Bangladesh;

- (b) to make and implement schemes or programme on the following matters—
 - (i) air traffic management and air navigation services;
 - (ii) aeronautical communication services at civil airports and aerodromes in the country;
 - (iii) services relating to non-aeronautical and other aeronautical matters;
 - (iv) flight inspection and safety and security related oversight;
 - (v) search and rescue services;
 - (vi) aircraft crash, fire, and rescue services at airports and aerodromes;
 - (vii) security arrangement for airports and aerodromes;
 - (viii) safety of civil aviation;
 - (ix) management of estates at airports and aerodromes;
 - (x) efficient management of the private owned airports and aerodromes or heliports;
 - (xi) air service agreement;
- (c) to prepare short, medium and long term development scheme, from time to time, for the approval of the Government with a view to promoting safe, effective, adequate, economical and properly coordinated civil air transport services and development of infrastructure;
- (d) to seek and obtain advice and assistance in preparation and execution of any scheme from any local authority or body of the Government;
- (e) to perform necessary works, conduct investigation, and issue orders;
- (f) to execute co-operation agreement, with the prior approval of the Government, related to civil aviation with the contracting states of the Chicago Convention;
- (g) to publish this Act and rules, regulations, ANOs, orders, instructions, circulars, etc. made thereunder in a manner that is highly convenient for the public to know and use;
- (h) to cause or cause to be made studies, surveys, experiments or technical research and bear the cost of any such studies, surveys, experiments or technical research as are made at its request by any other agency;

- (i) to undertake any works approved by the Government, incur expenditure, procure consultant or expert services and procure vehicles, plants, machinery and material, required for its use;
- (j) to perform other functions conferred on it, subject to the instructions given by the Government, from time to time;
- (k) to perform any other act as may be considered necessary for carrying out the purposes of this Act.

5. Chairman and members of the Authority.—(1) The authority shall consist of a Chairman and six members.

(2) The Chairman shall be the Chief Executive of the Authority.

(3) The Chairman and the members shall be the whole time officers of the Authority and they shall be appointed by the Government and the tenure and terms and conditions of their appointment shall be determined by the Government.

(4) If a vacancy occurs in the office of the Chairman or if the Chairman is unable to discharge the functions of his office on account of absence, illness or any other cause, the member appointed by the Government shall discharge the functions of the Chairman until a newly appointed Chairman holds his office or the Chairman resumes the functions of his office.

6. Qualifications for appointment to the posts of the Chairman and the members, removal and resignation.—(1) No person shall be qualified to be the Chairman or a member or shall continue to be the Chairman or a member, if he—

- (a) is not a citizen of Bangladesh;
- (b) is dismissed from government service;
- (c) is convicted of any offence of moral turpitude;
- (d) is declared by any competent court to be insane;
- (e) is declared by any competent court to be insolvent;
- (f) is declared by any Bank or Financial Institution to be a defaulter;
- (g) is not experienced in aviation management or similar technical matter; or
- (h) is a owner of any aeronautical enterprise or of any stock or bond thereof or has financial involvement therein or is connected with any business or vocational work or appointment thereof.

(2) The Government may, at any time, remove the Chairman or any member, if he—

- (a) fails or declines or, in the opinion of the Government, is unable to discharge any duty entrusted upon him by this Act; or
- (b) in the opinion of the Government, misuses his power.

(3) Notwithstanding anything contained in sub-section (2), the Chairman or any member may, at any time before completion of his tenure, resign his office by a letter under his hand addressed to the Government.

7. Responsibility and accountability of the Chairman and members.—

(1) The Chairman and members shall be responsible for the following activities, namely :—

- (a) to exercise all powers conferred under this Act for efficient performance of all functions of the Authority;
- (b) to discharge all duties for efficient management and administration of the Authority; and
- (c) to exercise control over all the employees and the activities of the Authority.

(2) The Chairman and the members shall, for their duties to be discharged and powers to be exercised, be accountable to the Government.

CHAPTER III
ADMINISTRATION OF THE AUTHORITY

8. General direction and administration.—The general direction and administration of the Authority shall vest in a Board which may exercise all powers and do all acts which may be exercised or done by the Authority.

9. Composition of the Board.—(1) The Board shall consist of the Chairman and nine members as mentioned below :—

- (a) Chairman, *ex-officio*, who shall also be the President of the Board;
- (b) six members, *ex-officio*;
- (c) Chief Engineer of the Authority, *ex-officio*;
- (d) one representative, not below the rank of a joint secretary, from the Ministry of Civil Aviation and Tourism;
- (e) one representative, experienced in civil aviation, nominated by the Government.

(2) The member nominated under clause (e) of sub-section (1) shall hold office for the next 3(three) years from the date of his nomination :

Provided that the Government may, at any time before the completion of the above mentioned tenure, without showing any cause, remove such nominated member from his office and such member also may resign his office by a letter under his hand addressed to the Government.

10. Meeting of the Board.—(1) The date, time and places for the meetings of the Board shall be determined by the President of the Board.

(2) All meetings of the Board shall be presided over by the President of the Board and, in his absence, by a member of the Authority authorised by the President.

(3) To constitute a quorum at a meeting of the Board, not less than one-third of its members including the President of the Board shall be present, but no quorum shall be required for an adjourned meeting.

(4) At a meeting of the Board, each member present including the President of the Board shall have one vote and the decision in the meeting shall be taken on the basis of majority votes, but in the event of equality of votes, the member presiding shall have a casting vote.

(5) No act or proceeding of the Board shall be invalid or be called in question merely on the ground of existence of any vacancy in, or defect in the constitution of, the Board.

11. Appointment of employees, etc.—(1) The Authority may, in accordance with the organogram approved by the Government and following the general or special instructions issued by the Government, from time to time, appoint such number of employees as may be necessary for the performance of its functions.

(2) The appointment and the terms and conditions of services of the employees of the Authority shall be prescribed by regulations.

12. Appointment of experts, advisors, etc.—The Authority may, if necessary for the performance of its functions, with the prior approval of the Government, appoint experts, advisors, consultants, special inspectors, lawyers and agents.

13. Co-operation with other organizations.—The Authority may, take co-operation from any agency or organization inside or outside of Bangladesh and, give co-operation to it.

14. Acquisition of Land and property.—Any land and property required by the Authority for carrying out the purposes of this Act, shall be deemed to be needed for a public interest, and such land and property required by the Authority may be acquired or requisitioned through proper authority in accordance with the existing provisions of laws and regulations related to acquisition of land and property.

15. Exchange of information.—The Chairman may, through proper authority, exchange any information related to civil aviation with any country or organization.

16. Delagation of power and responsibilities.—The Authority may, if necessary, by general or special order in writing, delegate, subject to such conditions as may be specified, if any, in such order, any power under this Act to the Chairman, any member or any employee of the Authority.

17. Power to levy and collect government fees or taxes and service charges.—(1) The Government may impose and collect government fees or taxes on any civil aviation matters, where necessary.

(2) The Authority may, with the prior approval of the Government, levy and collect the following fees, charges, royalties, premiums and rentals, namely:—

- (a) air route navigation and aeronautical charge;
- (b) service charge to be paid by the passengers travelling by air;
- (c) fees, charges, premium and rentals for the use of any property including aircraft belonging to the Authority;
- (d) aircraft landing, parking and housing charges;
- (e) security and other relevant charges;
- (f) fees and charges on any certificate or license issued, and power or approval given by the Authority, and transfer and renewal thereof, and on any activities related to inspection, audit, oversight, holding examination and test; and
- (g) any other charges related to civil aviation.

(3) The Chairman may publish a schedule of the fees, charges, royalties, premiums and rentals imposed by the Authority.

(4) The Authority may, with the prior approval of the Government, exempt any fees or charges of air to be imposed for urgent and national requirement.

(5) The sum of the Authority which becomes due from any person or organisation under this Act shall be recoverable as public demand under the provisions of the Public Demands Recovery Act, 1913 (Ben Act No. III of 1913).

18. Fund of the Authority.—(1) For carrying out the purposes of this Act, there shall be a fund to be called the “Civil Aviation Authority Fund” and all money collected from the following sources shall be credited to such fund:—

- (a) grants made by the Government ;
- (b) loans obtained from the Government ;
- (c) income from the sale of bonds issued by the Authority with the prior approval of the Government ;
- (d) loans obtained by the Authority with the prior approval of the Government ;

- (e) foreign aid and loans obtained with the prior approval of the Government ;
- (f) money received under sub-section (2) of section 17 ; and
- (g) money received from any other legal sources.

(2) The money of the fund may be kept in one or more Scheduled Banks and the fund shall be administered in such manner as may be prescribed by rules.

Explanation : “Scheduled Bank” means the scheduled bank as defined in Article 2 (j) of the Bangladesh Bank Order, 1972 (P.O No. 127 of 1972).

(3) The money may be withdrawn from the fund by joint signature of the Chairman and an employee of the Authority authorized by the Board.

(4) The payment of salaries, allowances and other sums to be paid in accordance with the terms and conditions of the service of all the employees, whole time and the contractual, and other expenses necessary for the Authority shall be met from the fund of the Authority.

(5) The money of the fund or any part thereof may be invested in any sector approved by the Government.

19. Budget.—The Authority shall, by such date in each year as may be prescribed by the Government, submit to the Government for approval a budget for each financial year showing the estimated receipt and expenditure and mentioning the amount of money necessary from the Government for that financial year.

20. Accounts and Audit.—(1) The Authority shall maintain its accounts properly and prepare an annual balance sheet containing the accounts of loss and profit and shall comply the general instructions issued by the Government, from time to time, for maintaining such accounts.

(2) The Comptroller and Auditor-General of Bangladesh, hereinafter referred to as the “Auditor-General” shall audit the accounts of the Authority each year and shall submit necessary copies of the report to the Government and the Authority.

(3) The Authority shall take immediate proper steps to meet the objections, if raised in the report mentioned in sub-section (2).

(4) Notwithstanding the audit mentioned in sub-section (2), the accounts of the Authority may be audited by a “chartered accountant” defined in Article 2 (1)(b) of the Bangladesh Chartered Accountants Order, 1973 (P.O No. 2 of 1973) and for that purposes the Authority may appoint one or more than one “chartered accountant” and the “chartered accountant” so appointed shall be entitled to such remuneration as may be determined by the Government.

(5) For the audit of the accounts of the Authority, the Auditor-General or any auditor authorised by him in this behalf or the chartered accountant appointed under sub-section (4) shall have access to all records, documents, annual balance sheet, cash or deposits, surety, fund or other assets, etc. and may examine the Chairman, any member or any employee of the Authority.

21. Power to entry.—The Chairman or any person authorised by him in writing in this behalf may, with or without assistants or workmen, enter into or upon any land in order to make any inspection, survey, inquiry or to erect pillar, make boring and excavation or to do such other act which may be necessary for the purposes of this Act :

Provided that no such entry shall be made without giving the owner or the occupier of the land at least 3 (three) days' prior notice of the intention to make such entry:

Provided further that in the case of aircraft accident or other similar emergency matters, no such notice shall be required to be issued.

(2) The Authority shall pay compensation for the damage, if any, caused to the land on account of any entry made under sub-section (1) at such rate and in such manner as may be prescribed.

22. Control of air space.—(1) The Chairman may, with the prior approval of the Board, by ANOs or regulations, delegate, subject to such conditions and restrictions as he deems fit, the power to use navigable airspace for the purpose of ensuring security of aircraft and the effective use of the said airspace.

(2) The power of the Authority under this section shall be applicable only to that air space whose air traffic management responsibility has not entrusted to any foreign state under any international agreement or any other arrangement.

23. Inquiry.—The Government may by itself inquire into the allegation against any activities of the Authority or cause such allegation to be inquired into by any other authority or organization.

24. Committees, etc.—The Authority may, for the safety and security of civil aviation in Bangladesh, form committees and determine the terms of references and the procedure of such committees.

25. Power to borrow loan.—For carrying out the purposes of this Act, the Authority may, if necessary, borrow loans with the prior approval of the Government.

26. Execution of scheme sponsored or financed by local authority or body, etc.—Notwithstanding anything contained in this Act, the Authority may, subject to the prior approval of the Government, undertake the execution of any scheme related to civil aviation activity as made or sponsored by any local or foreign body or agency or exercise technical supervision and administrative and financial control over the execution thereof, on such terms and conditions as may be agreed to between the Authority and such body or agency.

27. Submission of annual report, etc.—(1) The Authority shall, within 90 (ninety) days after the end of every financial year, submit to the Government a report on the conduct of its affairs for that year.

(2) The Government may, at any time, call for any report and statement or explanation from the Authority in respect of any matter related to it, and the Authority shall be bound to furnish it to the Government.

CHAPTER IV MISCELLANEOUS

28. Inapplicability of several provisions of Bangladesh Labour Act, 2006 for Authority.—The provisions contained in Chapter XIII and XIV of the Bangladesh Labour Act, 2006 (Act No. XLII of 2006) shall not be applicable to the Authority.

29. Return on investment.—The Government may charge, at a rate to be fixed by it, annual return on its investment.

30. Power to make rules.—For carrying out the purposes of this Act, the Government may, by notification in the official Gazette, make rules.

31. Power to make regulations.—For carrying out the purposes of this Act, the Authority may, with the prior approval of the Government, and by notification in the official Gazette, make regulations not inconsistent with this Act or rules made thereunder to provide for all matters considered to be necessary or expedient.

32. Power to make ANOs.—For carrying out the purposes of this Act, the Chairman may, by notification in the official Gazette, issue time befitting ANOs in accordance with the annexes to the Chicago Convention and other documents related thereto, and international regulations related to civil aviation that are considered necessary to him.

33. Repeal and savings.—(1) As soon as may be after the commencement of this Act, the Civil Aviation Authority Ordinance, 1985 (Ord. No. XXXVIII of 1985), hereinafter referred to as the said Ordinance, shall stand repealed.

(2) Notwithstanding such repeal under sub-section (1)—

- (a) the Board constituted under the said Ordinance, shall be dissolved as soon as may be after the constitution of the Board under this Act;
- (b) any act done or measure taken under the said Ordinance, shall be deemed to have done or taken under this Act;
- (c) any agreement, record or instrument made under the said Ordinance, shall have effect in such manner as if that had been made under this Act;

(d) any rules or regulations made, any notification issued, orders, instructions, approval, recommendations given, all plan or programme made, and all budget approved under the said Ordinance, shall be deemed to have made, issued, given and approved under relevant sections of this Act, subject to being consistent therewith.

(3) As soon as may be after the repeal of the said Ordinance under sub-section (1)—

- (a) any suit instituted or proceeding taken or any activity initiated by or against the Civil aviation Authority established under the said Ordinance, if remains pending, shall be disposed of in such way as if the said Ordinance had not been repealed;
- (b) all debts, liabilities and legal obligations of the Civil Aviation Authority established under the said Ordinance shall, on the same terms and conditions, be deemed to be the debts, liabilities and obligations of the Authority in accordance with the provisions of this Act;
- (c) all employees of the Civil Aviation Authority established under the said Ordinance, shall be employed in and hold office of, as the case may be, the Authority, on the same terms and conditions as they were employed in the service until the terms and conditions are not altered under the provisions of this Act;
- (d) all assets, rights, powers, authorities and benefits, fund, movable and immovable property, cash, bank deposits and, fund including all securities and all related books, registers, all other documents including records of the Civil Aviation Authority established under the said Ordinance, shall be transferred to the Authority and those shall belong to it.

34. Publication of Authentic English text .—(1) After the commencement of this Act, the Government shall, by notification in the official Gazette, publish an English translation of the Act to be called the Authentic English Text of the Act.

(2) In the event of conflict between the Bangla and the English text, the Bangla text shall prevail.

By order of the President

Md. Mofizul Islam Patwary
Deputy Secretary.

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