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ANALYSIS OF THE AIRCRAFT ACT, 1934

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ABSTRACT

*Civil aviation in India has been shaped for nearly a century by a single colonial era statute, the Aircraft Act, 1934.¹ Enacted to replace the rudimentary Indian Aircraft Act, 1911, the 1934 Act was designed as a skeletal, enabling law that vested the Central Government with broad rulemaking powers over the production, ownership, utilization, operation, purchase, and exportation of airplanes in India.² Over nine decades, the Act was amended more than twenty times, culminating in the Aircraft (Amendment) Act, 2020, which conferred statutory status upon the Directorate General of Civil Aviation, the Bureau of Civil Aviation Security, and the Aircraft Accident Investigation Bureau, and enhanced quantum penalties for violations.³ This paper undertakes a doctrinal analysis of the Aircraft Act, 1934, tracing its historical origins, examining its structural framework, definitions, rulemaking powers, offences and procedural safeguards, and evaluating its judicial interpretation, most notably in the supreme court's 2025 ruling in *State of Jharkhand v. Dr. Nishkant Dubey*.⁴ The paper further situates the Act within the international civil aviation framework governed by the International Civil Aviation Organisation and concludes by examining its eventual repeal and replacement by the Bharatiya*

¹ Aircraft Act, No. 22 of 1934, India Code (1934).

² Aircraft Act, No. 22 of 1934, pmbl., India Code (1934); PRS Legis. Rsch., The Bharatiya Vayuyan Vidheyak, 2024 (Aug. 9, 2024)

³ Aircraft (Amendment) Act, No. 15 of 2020, India Code (2020); PRS Legis. Rsch., The Aircraft (Amendment) Bill, 2020 (Mar. 17, 2020)

⁴ *State of Jharkhand v. Dr. Nishkant Dubey*, 2025 INSC 94 (India).

*Vayuyan Adhiniyam, 2024, assessing whether the transition addresses the structural deficiencies long associated with the older law.*⁵

INTRODUCTION

Aviation occupies a unique position among modes of transport because it is inherently transnational, technologically dynamic and safety sensitive. A single lapse in regulatory oversight can result in catastrophic loss of life, making the legal architecture governing aircraft operation a matter of considerable public importance. In India, this architecture was, until very recently, anchored in the Aircraft Act, 1934, a statute enacted during the colonial period that nonetheless survived, largely intact in its structural design, well into the 21st century.⁶ The persistence of a 1934 statute as the primary legislative basis for regulating a sector that today includes wide body jetliners, regional connectivity schemes, unmanned aerial vehicles and private jet charters is, in itself, a subject worthy of critical scholarly attention.

The aircraft Act, 1934 was never intended to be a comprehensive code laying down detailed operational standards. Instead, it functioned as an enabling statute, conferring upon the Central Government wide powers to frame subordinate legislation, most significantly the Aircraft Rules, 1937, through which the bulk of substantive aviation regulation in India has historically been carried out.⁷ This paper examines the constitutional and legislative design of the Act, the extent of delegated legislative power it confers, the offences and penalties it prescribes, and the manner in which constitutional courts have interpreted its provisions. It also traces the Act's amendment history, with particular focus on the Aircraft (Amendment) Act, 2020, before concluding with an assessment of the Act's replacement by the Bharatiya Vayuyan Adhiniyam, 2024, which came into force on 1st January 2025.⁸

HISTORICAL EVOLUTION OF AVIATION REGULATION IN INDIA

The origins of aviation law in India can be traced to the Indian Aircraft Act, 1911, enacted shortly after the first powered flights in the subcontinent and modelled on contemporary British legislation regulating aerial navigation.⁹ The 1911 Act was rudimentary and ill equipped to deal

⁵ Bharatiya Vayuyan Adhiniyam, No. 16 of 2024, India Code (2024).

⁶ Aircraft Act, No. 22 of 1934, India Code (1934); see also Lawyers Club India, Aircraft Act 1934: History, Purpose, Objectives and Case Laws (Nov. 23, 2023)

⁷ Aircraft Act, No. 22 of 1934, 4-9, India Code (1934); Aircraft Rules, 1937.

⁸ Bharatiya Vayuyan Adhiniyam, No. 16 of 2024, India Code (2024).

⁹ Lawyers Club India, *supra* note 6.

with the rapid technological advances that followed the First World War, during which military aviation matured considerably and commercial aviation began to emerge as a viable mode of transport. At the international level, the Paris Convention of 1919, formally title the International Convention on the Regulation of Air Navigation, was adopted by a few nations, including India, in an effort to harmonise the emerging body of international aviation law and establish common principles of sovereignty over airspace.¹⁰

Domestically, inadequacy of the 1911 framework becomes increasingly apparent as commercial air service began to operate within and beyond Indian Territory. This prompted the enactment of the Aircraft Act, 1934, which was assented to by the Governor General on 19 August 1934 and intended, in words of its long title, to provide more effective means of controlling the manufacture, possession, use, operation, sale, importation and exportation of aircraft.¹¹ The 1934 Act made an end to the 1911 Act and laid down, in its basics, the model of regulation that was to guide Indian aviation till the close of the 20th Century and beyond: a permissive Act with regulations as its appendages, chief of which were the Aircraft Rules, 1937.

Following independence, and India's accession to the Chicago Convention of 1944 as a founding member of the International Civil Aviation Organisation, the domestic framework was expected to evolve in step with International Civil Aviation Organisation, the domestic framework was expected to evolve in step with international standards and recommended practices.¹²

In practice, however, the core structure of the 1934 Act remained largely unchanged, even as the volume and complexity of Indian civil aviation grew exponentially, particularly after the liberalisation of the sector in the 1990s and the subsequent boom driven by low-cost carriers and regional connectivity schemes such as UDAN.

OBJECTS AND SCOPE OF THE AIRCRAFT ACT,1934

The Aircraft Act, 1934 is, in essence, a framework statute rather than a self-contained regulatory code. Its stated object is to provide for the regulation of the production, possession,

¹⁰ International Convention for the Regulation of Aerial Navigation, Oct. 13, 1919, 11 L.N.T.S. 173.

¹¹ Aircraft Act, No. 22 of 1934, pmbl., India Code (1934).

¹² Convention on International Civil Aviation, Dec. 7, 1944, 61 Stat. 1180, 15 U.N.T.S. 295.

use, operation, sale, import, and export of aircraft.¹³ The Act applies to all of India, by virtue of its provisions, also applies to Indian citizens and aircraft registered in India whenever they may be, to aircraft registered outside India while they are within or over Indian territory, and to person operating aircraft who, though not Indian nationals, have their principal place of business in India.¹⁴

This extraterritorial and quasi extraterritorial reach reflects the transnational character of aviation and the practice necessity of regulating foreign aircraft operating within Indian airspace.

Section 3 of the Act empowers the Central Governmental to exempt any aircraft, class of aircraft, or category of persons from the operation of all or any of its provisions.¹⁵ Aircraft belonging to the naval, military or air forces of the Union have traditionally been kept outside the ambit of the Act, a carve out that the Aircraft (Amendment) Act, 2020 extended to aircraft belonging to any other armed forces of the Union, while preserving continuity for aircraft of other armed forces that were, until then, regulated under the Act.¹⁶ This exemption reflects the recognition that military aviation is governed by a distinct regulatory and operational logic, generally administered through service specific rules rather than civilian aviation law.

The scope of the Act is deliberately broad, extending not merely to conventional fixed wing and rotary wing aircraft but, by virtue of its definition provisions, to balloons, kites, gliders and airships as well.¹⁷ This expansive definition has produced some unusual practical consequences, most notably the popular observation that recreational kite flying, if conducted without appropriate permission in restricted airspace, can in principle attract regulatory scrutiny under the Act and rules framed thereunder, illustrating both the breadth and the occasional incongruity of applying a single statutory definition across a wide spectrum of airborne objects.

¹³ Aircraft Act, No. 22 of 1934, pmbl., India Code (1934).

¹⁴ Aircraft Act, No. 22 of 1934, 2, India Code (1934); Law for Everything, The Indian Aircraft Act 1934: A Guide to the Legislation (Aug. 31, 2024)

¹⁵ Aircraft Act, No. 22 of 1934, 3, India Code (1934).

¹⁶ Aircraft (Amendment) Act, No. 15 of 2020, 3, India Code (2020); PRS Legis. Rsch., supra note 3.

¹⁷ Aircraft Act, No. 22 of 1934, 2, India Code (1934); JLRJS, Aircraft Act, 1934 (July 1, 2021)

KEY DEFINITIONS UNDER THE ACT

Section 2 of the Aircraft Act, 1934 contains the definitional foundation upon which the remainder of the statute operates.¹⁸ The term “aircraft” is defined broadly to mean any machine capable of deriving support in the atmosphere from the reactions of air, a formulation broad enough to encompass balloons, kites, gliders, airships and powered aeroplanes alike. This technology neutral drafting has allowed the definition to survive without amendment even as the underlying technology has changed dramatically, though it has also generated debate as to whether newer categories of aerial devices, particularly unmanned aerial systems and drones, fall squarely within its ambit or require separate treatment.

“Aerodrome,” on the other hand, is described as any definite or limited area of land or water designated for use, either in whole or in part, in the landing or taking off of aircraft.¹⁹

This definition has been the subject of judicial consideration in disputes concerning the regulatory status of airstrips, private landing grounds and ancillary aviation infrastructure. Other definitions of significance include “air transport service”, which anchors the Central Government’s licensing power over commercial carries, and provisions clarifying the persons and entities to whom the Act applies, including foreign operators with an Indian nexus.

RULE MAKING POWER OF THE CENTRAL GOVERNMENT

The architecture of the Aircraft Act, 1934 is best understood as a case study in extensive delegated legislation. Sections 4, 5, 5A, 6, 7, 8, 8A and 9 collectively vest the Central Government with the power to make rules on virtually every substantive aspect of aviation regulation.²⁰ Section 5, in particular, enumerates an extensive list of matters on which rules may be framed, spanning the registration of aircraft, certificates of airworthiness, competency and licensing of pilots and other aviation personnel, rules governing air traffic and collision avoidance, the designation of air routes, prohibition of flight over specified areas, aerodrome licensing, and, following successive amendments, the safeguarding of civil aviation against

¹⁸ Aircraft Act, No. 22 of 1934, 2, India Code (1934).

¹⁹ Id.

²⁰ Aircraft Act, No. 22 of 1934, §§ 4-9, India Code (1934).

acts of unlawful interference, air traffic control licensing, and certification of communication, navigation and surveillance system.²¹

The Aircraft Rules, 1937 have been made possible through such powers and it is these Rules together with the many Civil Aviation Requirements which have been issued by the Directorate General of Civil Aviation which provide the necessary operational details which have not been included in the main Act. It is Section 6 which provides the Government with a specific and separate power which enables the Central Government to deal with emergency situations when there is danger of an outbreak of some dangerous epidemic disease, which may spread through the use of aircrafts.²²

Section 8A empowers the Director General of Civil Aviation or an authorised officer to issue directions, consistent with the Act be laid before both Houses of Parliament, providing a measure of legislative oversight over what is otherwise an extensive grant of executive rule making authority.²³ This model of governance through delegated legislation has attracted sustained academic criticism on the ground that it concentrates substantive law-making power in the executive, with Parliament retaining only a residual and largely formal supervisory role through the laying the requirement.²⁴ At the same time, proponents of the model argue that the highly technical and fast evolving nature of aviation safety standards makes it impractical to embed detailed operational norms directly within a primary statute, and the flexibility in rule making is necessary to keep pace with international standards set by the International Civil Aviation Organisation.

REGULATORY ARCHITECTURE: DGCA, BCAS AND AAIB

For most of its existence, the Aircraft Act, 1934 did not expressly name or constitute the principal regulatory bodies responsible for its administration. The Directorate General of Civil Aviation Security, responsible for aviation security oversight since its establishment in 1978 and its reconstitution following the 1985 bombing of Air India Flight 182, and the Aircraft Accidents Investigation Bureau, established in 2011 to conduct independent accident and incident investigations in line with international standards, all functioned as executive bodies

²¹ Aircraft Act, No. 22 of 1934, 5, India Code (1934); Lawsisto Central Acts, Aircraft Act, 1934

²² Aircraft Act, No. 22 of 1934, 6, India Code (1934).

²³ Aircraft Act, No. 22 of 1934, 8A, 14A, India Code (1934).

²⁴ See Lexplosion Sols., Bharatiya Vayuyan Adhiniyam, 2024 Replaces the Aircraft Act, 1934 (Dec. 22, 2025)

operating under the administrative control of the Ministry of Civil Aviation rather than as statutory creatures of the Act itself.²⁵

However, such an approach received criticism during International Civil Aviation Organisation Safety audit exercises undertaken in 2012 and 2015, noting that the lack of statutory status weakened the authority and independence of these regulatory agencies, thereby the international civil aviation safety ratings of India. The Aircraft (Amendment) Act, 2020 was formulated as a measure to counter this weakness, establishing the DGCA, BCAS and AAIB as statutory agencies through the Act, each run by a Director General appointed by the Central Government, where the Central Government has the right of superintendence and the right to give direction to these bodies in the interest of the general public..²⁶

The 2020 Amendment also brought air navigation services within the ambit of matters on which rules could be made under Section 5, reflecting the growing complexity of air traffic management in Indian airspace.²⁷

OFFENCES, PENALTIES AND PROCEDURAL SAFEGUARDS

The penal architecture of the Aircraft Act, 1934 is concentrated primarily in section 10, 10A, 11, 11A, 11B and 12, which create offences ranging from the general contravention of rules made under the Act, to specific offences such as recklessly or negligently flying an aircraft so as to endanger persons or property, unauthorised carriage of arms, ammunition or explosives on board as aircraft, furnishing false information to aviation authorities, and obstructing or refusing to comply with lawful directions issued by the Director General or Other authorised officers.²⁸ Section 13 further provides for the forfeiture of the aircraft, article or substance in connection with which certain offenses have been committed.²⁹

The quantum of penalties under the Act has been revised on several occasions to keep pace with inflation and to enhance deterrence. Fines that stood at a modest one thousand to two thousand rupees were raised to a maximum of ten lakh rupees in 2007, and were further enhanced to a maximum of one crore rupees under the Aircraft (Amendment) Act, 2020, while

²⁵ Directorate General of Civil Aviation (India), Wikipedia

²⁶ Aircraft (Amendment) Act, No. 15 of 2020, India Code (2020); PRS Legis. Rsch., supra note 3.

²⁷ Deccan Herald, Parliament Passes Bill to Give Statutory Status to Aviation Regulators (Mar. 17, 2020)

²⁸ Aircraft Act, No. 22 of 1934, 10, 10A, 11, 11A, 11B, 12, India Code (1934) (as amended).

²⁹ Aircraft Act, No. 22 of 1934, 13, India Code (1934).

terms of imprisonment, generally capped at two years for most offences, were left unchanged.³⁰ The 2020 Amendment additionally introduced a mechanism for the compounding of offences under Sections 10, 11, 11A, 11B and 12, permitting the Director General of the DGCA, BCAS or AAIB, subject to the control of the central Government, to compound offences either before or after the institution of prosecution, save where the offence has been committed a second time, or within five years of an earlier compounding or conviction for a similar offence, thereby introducing a graduated enforcement mechanism intended to balance deterrence against the practical burden of prosecuting every technical violation through the criminal courts.³¹

Another notable procedural protection comes in section 12B, under which no court shall take cognisance of any offence under the Act unless a complaint is lodged either by or with the prior written sanction of the Director General of Civil Aviation, BCAS, or AAIB, as the case may be, while the trials of such offences are limited only to courts of the status of Metropolitan Magistrate or of the first-class magistrate or above. This prior sanction clause will be considered in detail in the subsequent section, but for now it may be noted that this clause has been among the most controversial aspects of the Act.

JUDICIAL INTERPRETATION OF THE ACT

Indian courts have had occasion to interpret several aspects of the Aircraft Act, 1934, ranging from the scope of its definitional provisions to the procedural bar under Section 12B. The most significant recent pronouncement is that of the supreme court in *State of Jharkhand v. Dr. Nishkant Dubey*, arising out of the 2022 Deoghar Airport controversy, in which sitting Members of Parliament were alleged to have entered the Air Traffic Control room and pressured officials into permitting a chartered flight to take off after the permissible hours.³² A First Information Report was registered invoking, among other provisions, Section 336, 447, and 448 of the Indian Penal Code, read with Sections 10 and 11A of the Aircraft Act. In the case before the Jharkhand High Court, the First Information Report was quashed on the ground that the Aircraft Act, along with the Airport (Security) Rules, 2011 made under it, form an exclusive and complete code dealing with the matters related to the security of civil aviation and Section 12B is a prerequisite for taking cognizance, which cannot be side-tracked using provisions of general law.³³ On the appeal, the Supreme Court, in its judgement delivered in

³⁰ Deccan Herald, *supra* note 29.

³¹ Mondaq, Amendment to the Aircraft Act, 1934 (Nov. 12, 2020)

³² *State of Jharkhand v. Dr. Nishkant Dubey*, 2025 INSC 94 (India).

³³ *Dr. Nishkant Dubey v. State of Jharkhand*, 2023 SCC OnLine Jhar 304 (India).

January 2025, broadly affirmed this reasoning, holding that offences arising from the underlying facts fell squarely within the Aircraft Act rather than the general penal law and clarifying that while the bar under Section 12B does not necessarily prevent the police from registering Even in the case of a First Information Report and making a preliminary investigation, it is required that evidence or materials collected during this investigation be sent to the authorized officer under the Act., who alone is competent to decide whether a formal complaint ought to be filed.³⁴

The court thereby preserved the special procedural architecture of the Act while leaving open an avenue for law enforcement agencies to participate in the fact-finding process without directly usurping the sanctioning function reserved to aviation authorities.

This position finds an earlier echo in the Kerala High Court's decision in *Sridevi Padmanabhan v. Sub Inspector of Police*, as per which the court decided that the offence under Section 11A of the Act is a non-cognizable offence, and therefore, the police cannot register FIR without prior permission of the court.³⁵ Taken together, these decision confirm the judiciary consistent characterisation of the Aircraft Act as a specialised, self-contained penal code whose procedural safeguards are designed to ensure that prosecutions for aviation related offences are initiated and supervised by technically competent aviation authorities rather than being left entirely to the discretion of local police, a design choice intended to prevent the misuse of criminal process in a highly technical regulatory domain, even as critics have observed that the same safeguard can, in practice, be invoked to delay or frustrate accountability in politically sensitive incidents.³⁶

Beyond questions of procedure, the definitional reach of the Act has also featured in litigation concerning the regulatory status of flying training institutes and aircraft maintenance engineering courses, through judicial scrutiny as to whether these institutions come under the purview of regulation by the Directorate General of Civil Aviation under the Act and the Aircraft Rules, 1937, and in relation to the historic overlap between the Act and customs law, especially with regard to imports of aircraft and their parts.³⁷ Additionally, the investigation into the 1985 bombing of Air India Flight 182, though not itself a judicial proceeding under the

³⁴ *State of Jharkhand v. Dr. Nishkant Dubey*, 2025 INSC 94 (India); LawBeat, [Deoghar Airport Case] SC Upholds Quashing of FIR Against BJP MPs Nishikant Dubey, Manoj Tiwari (Jan. 22, 2025),

³⁵ *Sridevi Padmanabhan v. Sub-Inspector of Police*, 2020 SCC OnLine Ker 846 (India).

³⁶ *Supreme Today AI*, High Court Quashes Pilot's Prosecution Under S.11 Aircraft Act; Cites Mandatory S.12B Sanction (June 23, 2025),

³⁷ *IndianKanoon*, Aircraft Act 1934: Doctypes: Judgments,

Act, led to significant amendments of the Aircraft Rules, 1937 to permit accident investigation courts of inquiry to hold certain proceedings in camera, illustrating the manner in which major aviation incidents have historically driven incremental reform of the subordinate legislative framework.³⁸

THE AIRCRAFT (AMENDMENT) ACT, 2020: STRENGTHENING THE FRAMEWORK

The Aircraft (Amendment) Act, 2020 represents the most substantial legislative intervention in the Act's post-independence history and merits separate consideration.³⁹ Beyond conferring statutory status upon the DGCA, BCAS and AAIB, as discussed above, the Amendment was explicitly motivated by International Civil Aviation Organisation Safety audits that had flagged the absence of statutory backing for India's aviation Organisation safety audits that had flagged the absence of statutory backing for India's aviation regulators as a deficiency affecting the country's global safety ranking.⁴⁰ The Amendment accordingly sought to align India's institutional framework with international expectations by placing regulatory authority on a clear statutory footing, enhancing the deterrent value of financial penalties, and introducing the compounding mechanism discussed earlier as a means of decongesting the criminal justice system in respect of technical or minor violations.

The Amendment also empowered the Central Government to issue directions reviewing orders passed by the DGCA, BCAS, and AAIB where necessary in the public interest, a provision that has attracted some scrutiny insofar as it preserves a degree of executive oversight over bodies that are simultaneously intended to function as independent safety and security regulators.⁴¹ Commentators have noted the tension inherent in granting statutory independence to these authorities while retaining a residual power of ministerial direction and review, a tension that mirrors similar debates surrounding the independence of regulatory bodies in other sectors of Indian administrative law.⁴²

³⁸ CaseMine, Act 022 of 1934: Aircraft Act, 1934

³⁹ Aircraft (Amendment) Act, No. 15 of 2020, India Code (2020).

⁴⁰ PRS Legis. Rsch., supra note 3.

⁴¹ BTG Advaya, (Indian) Aircraft (Amendment) Act, 2020: More Teeth for Aviation Regulators (Sept. 22, 2020)

⁴² Id.

CRITICAL ANALYSIS: STRENGTHS AND LIMITATIONS

Viewed as a piece of legislative design, the Aircraft Act, 1934 exhibits both notable strengths and significant limitations.

Among its strengths, the Act's technology neutral definitional framework and its reliance on delegated rule making have allowed Indian aviation regulation to adapt, at least at the level of subordinate legislation, to substantial technological and operational change without requiring frequent parliamentary amendment of the parent statute. The 2020 Amendment further demonstrated the capacity of the framework to evolve incrementally in response to international scrutiny, strengthening institutional accountability and enhancing the deterrent value of penal provisions.

At the same time, the Act's limitations are considerable. Its heavy reliance on delegated legislation, while administratively convenient, sits uneasily with constitutional principles disfavouring excessive delegation of essential legislative functions, since much of the substantive content of Indian aviation law resides not in the Act itself but in Rules, Civil Aviation Requirements and executive directions that are considerably more difficult for the ordinary citizen, or indeed the ordinary legal practitioner, to locate and interpret.⁴³ The piecemeal manner in which the Act was amended on more than 20 occasions over 90 years produced a degree of structural incoherence, with successive amendments bolted onto an original colonial era skeleton rather than integrated into coherent, modern regulatory code.⁴⁴

The institutional design introduced by the 2020 Amendment, while an improvement, also fell short of full compliance with international best practice in one important respect: Annex 13 to the Chicago Convention contemplates that accident investigation authorities should be functionally independent of the civil aviation regulator whose own actions or omissions may be under investigation, yet the AAIB, even after acquiring statutory status, continues to operate within an institutional structure closely linked to the Ministry of Civil Aviation, raising questions about the degree of independence achieved in practice.⁴⁵ Additionally, the sanction requirement under Section 12B, while designed to prevent misuse of the criminal process has, as the Deoghar Airport litigation illustrates, also generated concern that it can operate to shield

⁴³ See Maheshwari & Co., *Bharatiya Vayuyan Adhiniyam 2024 Explained* (July 9, 2026)

⁴⁴ *Id.*

⁴⁵ *Id.*

politically influential actors from timely accountability, since the decision whether to prosecute rests with an aviation authority that may itself be subject to political pressure.⁴⁶

Finally, the Act's original drafting could not, and did not, anticipate the emergence of unmanned aerial systems, remotely piloted aircraft, electric vertical take off and landing vehicles, and other novel categories of airborne technology that have transformed the aviation landscape in the past decade, necessitating a patchwork of drone specific rules issued under the Act's general rulemaking power rather than a purpose-built statutory framework for these emerging technologies.

COMPARATIVE AND INTERNATIONAL DIMENSION

Since India is one of the founding members of the International Civil Aviation Organization by virtue of the Chicago Convention of 1944, it is necessary for India to comply, insofar as possible, with the Standards and Recommended Practices formulated under various annexures of the Chicago Convention.⁴⁷ The Aircraft Act, 1934, as an enabling statute, has historically served as the domestic vehicle through which these international standards are translated into binding Indian rules, though the adequacy of this translation has periodically been questioned, most notably in the ICAO audits that prompted the 2020 Amendment.

Comparatively, many mature aviation jurisdictions have moved toward consolidated, modern civil aviation statutes that expressly constitute independent safety regulators and accident investigation bodies as freestanding statutory authorities, rather than relying on executive notification under a colonial era enabling law.⁴⁸ The persistence of the 1934 Act as India's primary aviation statute, notwithstanding its extensive amendment, therefore placed India in a somewhat anomalous position among major aviation markets, a position that provided part of the impetus for the eventual decision to replace the Act altogether rather than continue amending it incrementally.

⁴⁶ LawBeat, *supra* note 37.

⁴⁷ Convention on International Civil Aviation, *supra* note 12.

⁴⁸ Maheshwari & Co., *supra* note 46.

FROM THE AIRCRAFT ACT, 1934 TO THE BHARATIYA VAYUYAN ADHINIYAM, 2024

After a period of 90 years and 20 plus amendments, the Aircraft Act, 1934 has been officially repealed and is now superseded by Bharatiya Vayuyan Adhiniyam, 2024.

The new Act was tabled in the Lok Sabha on 9th August 2024, approved by the Rajya Sabha on 5th December 2024, assented to by the president on 11th December 2024, and came into force on 1st January 2025.⁴⁹

Notably, the new Act retains much of the institutional architecture developed under the 1934 Act as amended in 2020, continuing to vest safety oversight and regulatory functions in the DGCA, security oversight in the BCAS, and accident investigation functions in the AAIB, with the Central Government retaining a power of superintendence over these authorities.⁵⁰

The Bharatiya Vayuyan Adhiniyam, 2024 nonetheless expands the scope of regulation considerably beyond that of its predecessor, extending expressly to the design of aircraft, and reflecting the legislature's stated intention to regulate emerging categories of aviation activity, including drones and other unmanned systems, air taxis and the aircraft leasing sector, in a manner that the 1934 Act's original drafting could not accommodate without extensive rule making improvisation.⁵¹ The new Act is also intended to remove certain redundancies that had accumulated through repeated amendment of the 1934 Act, and to better align India's domestic aviation framework with the Chicago Convention and associated international standards, with an explicit policy objective of improving the ease of doing business in the aviation sector and strengthening India's position in aircraft leasing and maintenance, repair and overhaul activity.⁵²

That said, because the new Act substantially retains the regulatory architecture, offence structure and rule making methodology inherited from the Aircraft Act, 1934, several of the structure critiques examined in this paper, particularly concerns regarding the extent of delegated legislative power and the practical independence of accident investigation from

⁴⁹ Bharatiya Vayuyan Adhiniyam, 2024

⁵⁰ PRS Legis. Rsch., supra note 2.

⁵¹ ETV Bharat, Explainer: India Replaces British-Era Aircraft Act with 'Bharatiya Vayuyan Adhiniyam 2024' (Jan. 1, 2025),

⁵² Id.

safety regulation, remain relevant considerations for the continued evolution of Indian aviation law under the successor statute.

CONCLUSION AND SUGGESTIONS

The Aircraft Act, 1934 occupies a distinctive place in the history of Indian regulatory law: a colonial era enabling statute that, through successive amendment, was made to bear the weight of regulating one of the world's fastest growing civil aviation markets for nearly a century. Its enduring reliance on delegated legislation allowed the framework a measure of adaptability, while the Aircraft (Amendment) Act, 2020 addressed long standing institutional deficiencies by conferring statutory status upon the DGCA, BCAS and AAIB and enhancing penal deterrence. At the same time, the Act's judicial interpretation, culminating in the Supreme Court's decision in *State of Jharkhand v. Dr. Nishkant Dubey*, confirmed its character as a specialised, self-contained penal code, while simultaneously illustrating the tension between procedural safeguards designed to protect the integrity of the regulatory process and the risk that such safeguards may be invoked to delay accountability in politically charged circumstances.

The eventual repeal of the Act and its replacement by the *Bharatiya Vayuyan Adhiniyam, 2024* marks a significant milestone, yet the continuity of institutional design between the old and new statutes suggests that many of the structural questions examined in this paper, concerning the appropriate limits of delegated legislation, the practical independence of accident investigation authorities, and the balance between procedural safeguards and accountability, will continue to demand sustained scholarly and judicial attention under the new legal regime. Future reform efforts would benefit from a clearer statutory delineation of the AAIB's independence from the safety regulator it may be called upon to investigate, a periodic legislative review mechanism to prevent the recurrence of the piecemeal amendment pattern that characterised the 1934 Act, and continued alignment with evolving International Civil Aviation Organisation standards as aviation technology continues to advance.

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