

THE CIVIL AVIATION AUTHORITY ORDINANCE, 1985**CONTENTS**

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THE CIVIL AVIATION AUTHORITY ORDINANCE, 1985

ORDINANCE NO. XXXVIII OF 1985

[25th July, 1985]

An Ordinance to establish a Civil Aviation Authority.

WHEREAS it is expedient to establish a Civil Aviation Authority and to provide for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title

1. This Ordinance may be called the Civil Aviation Authority Ordinance, 1985.

Definitions

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

- (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 and other structure and roads thereon or appertaining thereto;
- (b) "airport" means an aerodrome at which facilities have, in the opinion of the Government, been sufficiently developed to be of importance to civil aviation;
- (c) "Authority" means the Civil Aviation Authority established under section 3;
- (d) "Board" means the Board of the Authority constituted under section 5;
- (e) "Chairman" means the Chairman of the Board;
- (f) "member" means a member of the Board;
- (g) "prescribed" means prescribed by rules or regulations made under this Ordinance.

3. (1) As soon as may be after the commencement of this Ordinance, the Government shall, by notification in the *official Gazette*, establish an Authority to be called the Civil Aviation Authority for carrying out the purposes of this Ordinance.

Establishment
of the Authority

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

4.(1) The general direction and administration of the Authority and its affairs shall vest in a Board which may exercise all powers, perform all functions and do all acts and things which may be exercised, performed or done by the Authority.

Management

(2) The Authority in discharging its functions shall be guided on questions of policy by such directions as may be given to it, from time to time, by the Government.

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

Board

(2) The Chairman and other members shall be appointed by the Government on such terms and conditions as the Government may determine.

(3) One of the members shall be in-charge of operation and planning and another in-charge of finance.

6. (1) The meetings of the Board shall be held at such time and places and in such manner as may be prescribed:

Meetings of the
Board

Provided that, until so prescribed, such meetings shall be held at such times and places and in such manner as may be determined by the Chairman.

(2) To constitute a quorum at a meeting of the Board, not less than three members shall be present.

(3) All meetings of the Board shall be presided over by the Chairman or, in his absence, by a member authorised in writing by the Chairman.

(4) At a meeting of the Board, each member shall have one vote and, in the event of equality of votes, the member presiding shall have a second or 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.

Chief executive

7. (1) The Chairman shall be the whole time officer and the chief executive of the Authority and shall be responsible for the efficient management and proper administration of the affairs of the Authority and shall examine such persons and functions as may be prescribed or as may be assigned to him by the Board or by the Government.

(2) 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 in-charge of operation and planning shall act as Chairman.

Power and functions of the Authority

8. (1) The Authority shall be responsible for the regulation and control of civil aviation activities in the country.

(2) The Authority shall, from time to time, prepare for the approval of the Government five-year plans for the development of infrastructure for the promotion of safe, efficient, adequate, economical and properly coordinated civil air transport service and control and regulate civil aviation activities in Bangladesh.

(3) The Authority shall frame schemes in respect of-

- (a) provisions of civil airports and aerodromes in the country;
- (b) provision of air traffic services to aircraft;
- (c) provision of navigational services to aircraft;
- (d) provision of communication services at the civil airports and aerodromes in the country;

- (e) provision of aeronautical and flight inspection services to all aircraft registered in Bangladesh;
- (f) provision of search and rescue services;
- (g) provision of crash, fire and rescue services at all airports and aerodromes to aircraft in need;
- (h) provision of security measures to the aerodromes and airports;
- (i) management of estates at airports and aerodromes;
- (j) any other matter facilitating the achievement of the objects of this Ordinance.

(4) The Authority may, if it considers necessary,-

- (a) cause studies, surveys, experiments or technical research to be made or contribute towards the cost of any such studies, surveys, experiments or technical research made by any other agency at the request of the Authority;
- (b) approve development schemes costing not more than twenty million taka non-recurring or four million taka recurring and subject to the Government for approval schemes costing more than that amount;
- (c) subject to clause (b), undertake any approved works, incur any expenditure, procure vehicles, plants, machinery and material, required for its use and enter into and perform all such contracts as it may consider necessary or expedient;
- (d) acquire by purchase, lease, exchange or otherwise any land or immovable property or any interest in such land or property;
- (e) seek and obtain advice and assistance in the preparation or execution of a scheme from any local body or agency of the Government.

9. The Government may by notification in the *official Gazette*, delegate to the Authority or the Chairman such of its powers and functions under the Civil Aviation Ordinance, 1960 (XXXII of 1960), or the rules made thereunder as it may specify therein.

Delegation of powers under Ordinance XXXII of 1960

Execution of schemes sponsored by local body, etc.

10. Notwithstanding anything contained in this Ordinance, the Authority may undertake the execution of any scheme relating to civil aviation activity as framed 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:

Provided that the Authority shall not undertake the execution of any scheme framed or sponsored by any foreign body or agency or exercise any technical supervision or administrative and financial control over the execution thereof without the prior approval of Government.

Control of air transport and aviation services

11. (1) Subject to the provisions of any other law for the time being in force, the Authority shall have control over-

- (a) all the civil airports and aerodromes in Bangladesh including their planning, construction, operation and maintenance;
- (b) all air routes in Bangladesh;
- (c) air space management of civil airports and aerodromes.

(2) Nothing in this section shall entitle the Authority to exercise any power in respect of any airports, aerodromes or airfields established for the exclusive use of Defence Services or any works and things connected therewith.

Power to entry

12. (1) 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 or enquiry or to erect pillar, make boring and excavation or to do such other act which may be necessary for the purposes of this Ordinance:

Provided that no such entry shall be made without giving the owner or the occupier of the land at least three days previous notice of the intention to make such entry.

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

13. The Authority shall be competent to levy and collect, at such rates as may be prescribed by the Authority by regulations from time to time-

Power to levy, etc.

- (a) air route navigation charges;
- (b) passenger services fees to be paid by the passengers travelling by air;
- (c) fees, charges, premium and rentals for use of any property including aircraft belonging to the Authority;
- (d) aircraft landing, parking and housing charges;
- (e) with the approval of the Government, any other charges on any matter relating to civil aviation.

14. Any land required by the Authority for carrying out the purposes of this Ordinance shall be deemed to be needed for a public purpose and such land may be requisitioned or acquired according to the requirements of the Authority.

Acquisition of land

15. The Authority may appoint such officers, employees, experts, advisers and consultants as it may consider necessary for the performance of its functions on such terms and conditions as it may determine from time to time.

Recruitment of officers, etc.

16. (1) There shall be a fund to be known as the "Civil Aviation Authority Fund" which shall vest in the Authority and shall be utilised by the Authority to meet charges and expenses in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Chairman, members, officers, employees, experts, advisers and consultants of the Authority.

Civil Aviation Authority Fund

(2) The Civil Aviation Authority Fund shall consist of-

- (a) grants made by the Government;

- (b) loans obtained from the Government;
- (c) sale proceeds of bonds issued by the Authority with the prior approval of the Government;
- (d) loans obtained by the Authority with the approval of the Government;
- (e) foreign aid and loans obtained with the approval of the Government; and
- (f) all other sums received by the Authority.

(3) The moneys of the Civil Aviation Authority Fund shall be kept in scheduled banks.

Budget of the Authority

17. The Authority shall, by such date in each year as may be prescribed, submit to the Government for approval a budget for each financial year showing the estimated receipt and expenditure.

Accounts and Audit

¹**18.** (1) The Authority, shall maintain its accounts in such manner and form as may be prescribed.

(2) Without prejudice to the provisions of the Comptroller and Auditor-General (Additional Functions) Act, 1974 (XXIV of 1974), the accounts of the Authority shall be audited by not less than two auditors, being chartered accountants within the meaning of the Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973), who shall be appointed by the Government.

(3) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet and other accounts of the Authority together with the account books and vouchers relating thereto for examination.

(4) Every auditor shall, at all reasonable times, have access to the books of accounts and other documents of the Authority, and may, in connection with such accounts, examine the Chairman or any member of the Board or any officer of the Authority.

¹ Section 18 was substituted by section 2 of the Civil Aviation Authority (Amendment) Act, 1989 (Act No. XXV of 1989).

(5) The auditors shall report to the Government upon the annual balance sheet and the accounts and on any ancillary matter connected therewith.

(6) The Government may, at any time, issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Authority for the protection of the interests of the Government or upon the sufficiency of their procedure in auditing the affairs of the Authority, and may, at any time, enlarge or extend the scope of audit or direct that a different procedure in audit shall be adopted or that any other examination shall be made by the auditors or any other persons if, in its opinion, the interest of the Government so requires.]

19. The Authority, shall be deemed to be a local authority for the purpose of borrowing money under the local Authorities Loans Act, 1914 (IX of 1914), and the making and execution of any scheme under this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out.

Authority to be deemed to be a local authority

20. (1) The Authority shall, as soon as possible after the end of every financial year, submit to the Government an annual report on the conduct of its affairs for that year.

Submission of annual report, etc.

(2) The Government may require the Authority to furnish any report, return, statement, estimate, statistics or other information regarding any matter under the control of the Authority and the Authority shall comply with every such requisition.

21. No suit, prosecution or other legal proceedings shall lie against the Authority, Board, Chairman or any member or any officer, employee, expert, adviser or consultant of the Authority for anything done or intended to be done in good faith under this Ordinance.

Indemnity

22. The Industrial Relations Ordinance, 1969 (XXIII of 1969), shall not apply to the Authority or any person in the service of the Authority.

Ordinance XXIII of 1969 not to apply to the Authority

23. Notwithstanding anything contained in any law for the time being in force, the Authority shall not be liable to pay any income-tax or super-tax on its income, profits or gains.

Exemption from certain taxes

Power to make rules

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

Power to make regulations

25. (1) The Authority may, with the prior approval of the Government, make regulations, not inconsistent with the provisions of this Ordinance and rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

(2) All regulations made under this section shall be published in the *official Gazette* and shall come into force on such publication.

Transfer of certain assets of the Government to the Authority

26. All assets and undertakings, including lands, buildings, airports and aerodromes, works, machinery, apparatus, equipments, materials and plants belonging to or vested in the Department of Civil Aviation shall stand transferred to and vest in the Authority, and all liabilities of the said Department in respect thereof shall be the liabilities of the Authority.

Annual return on investment

¹[**26A.** The Government shall charge annual return on its investment at a rate to be fixed by the Government.]

Repeal and savings

27. (1) The Civil Aviation Ordinance, 1982 (XXVII of 1982), hereinafter referred to as the said Ordinance, shall stand *repealed*.

(2) Upon the repeal of the said Ordinance,-

- (a) the Civil Aviation Authority, hereinafter referred to as the ²[dissolved Authority], established under the said Ordinance, shall stand dissolved;

¹ Section 26A was inserted by section 2 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

² The words "dissolved Authority" were substituted for the words "said Authority" by section 3 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

- (b) all assets, undertakings and properties, movable and immovable of the ¹[dissolved Authority], shall stand transferred to, and vest in, the Authority;
- (c) all debts and liabilities incurred, all obligations undertaken, all contracts entered into and all agreements made by or with the ²[dissolved Authority] shall be deemed to have been incurred, undertaken, entered into or made by or with, the Authority;
- (d) all suits or other legal proceedings instituted by or against the ³[dissolved Authority] shall be deemed to have been instituted by or against the Authority and may be continued or proceeded with accordingly ⁴].

[* * *]

(3) and (4) [Omitted by section 3 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).]

⁵[28. (1) All officers and other employees of the dissolved Authority, other than those mentioned in sub-section (2), shall on the establishment of the Authority, stand transferred to, and become officers and employees of, the Authority shall hold their office or service in the Authority on the same terms and conditions and with the same rights and privileges as to provident fund, gratuity, pension and other matters as were

Provision relating to employees of dissolved Authority

¹ The words “dissolved Authority” were substituted for the words “said Authority” by section 3 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

² The words “dissolved Authority” were substituted for the words “said Authority” by section 3 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

³ The words “dissolved Authority” were substituted for the words “said Authority” by section 3 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

⁴ The full-stop (.) was substituted for the semi-colon (;) and thereafter clause (e) was omitted by section 3 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

⁵ Section 28 was added by section 4 of the Civil Aviation Authority (Amendment) Ordinance, 1985 (Ordinance No. LI of 1985).

enjoyed by them immediately before such establishment and shall continue to do so until such terms and conditions are duly altered by the Authority with the approval of the Government.

(2) All officers and other employees of the dissolved Authority who were officers and other employees of the Department of Civil Aviation shall, on the establishment of the Authority, stand transferred to the Authority, but shall continue to be Government servants and hold their office or service in the Authority on deputation and be governed in respect of all matters relating to the terms and conditions of their service by the laws, rules and regulations applicable to Government servants:

Provided that such an officer or employee may, within a period of one hundred and eighty days from the date of establishment of the Authority, exercise his option not to continue as Government servant, whereupon such officer or employee shall cease to be Government servant and shall become officer or employee of the Authority and hold his office or service in the Authority as an officer or employee transferred under sub-section (1).

(3) All officers and other employees holding their office or service in the Authority under sub-section (2) shall be eligible for promotion to any post of the Authority and for that purpose a common seniority list of all officers and other employees of the Authority shall be prepared by the Authority.

(4) The Authority shall bear all expenses required for, and in connection with, the pay, provident fund, gratuity, pension and other financial benefits of the officers and other employees holding their office or service in the Authority under sub-section (2).]
