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## LAW DEPARTMENT

### NOTIFICATION

The 24th March 2009

No. 4124—I-Legis.-10/2009-L.—The following Acts of Parliament which are assented to by the President on the 5th December 2008 and published by the Government of India, Ministry of Law and Justice (Legislative Department) in the *Gazette of India*, Extraordinary, Part-II, Section-I, dated the 5th December 2008 are hereby republished for general information.

By order of the Governor

B. K. NAYAK

Principal Secretary to Government

## THE CENTRAL UNIVERSITIES LAW (AMENDMENT) ACT, 2008

(ACT No. 25 OF 2008)

*An Act further to amend the Banaras Hindu University Act, 1915, the Delhi University Act, 1922, the Jawaharlal Nehru University Act, 1966, the North-Eastern Hill University Act, 1973 and the University of Hyderabad Act, 1974.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

### CHAPTER I

#### PRELIMINARY

Short title                    1. This Act may be called the Central Universities Laws (Amendment) Act, 2008.

### CHAPTER II

#### AMENDMENTS TO THE BANARAS HINDU UNIVERSITY ACT, 1915

Amendment of Section 13.                    2. In the Banaras Hindu University Act, 1915 (hereafter in this Chapter referred to as the Banaras Hindu University Act), in Section 13, after sub-section (2), the following sub-section shall be inserted, namely:— 16 of 1915.

“(3) A copy of the accounts, together with the auditor’s report, shall also be submitted to the Central Government, which shall as soon as may be, cause the same to be laid before both Houses of Parliament.”.

Insertion of  
new Section  
13A.

**3.** After Section 13 of the Banaras Hindu University Act, the following section shall be inserted, namely:—

Annual  
report

“ 13A. (1) The annual report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and shall be considered by the Court in its annual meeting.

(2) The Court may communicate its comments thereon to the Executive Council.

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

### CHAPTER III

#### AMENDMENTS TO THE DELHI UNIVERSITY ACT, 1922

Amendment  
of Section  
38.

**4.** In the Delhi University Act, 1922 (hereafter in this Chapter referred to as the Delhi University Act), Section 38 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

Amendment  
of Section  
39.

**5.** In Section 39 of the Delhi University Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A copy of the accounts, together with the audit report, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament”.

### CHAPTER IV

#### AMENDMENTS TO THE JAWAHARLAL NEHRU UNIVERSITY ACT, 1966

Amendment  
of Section  
19.

**6.** In the Jawaharlal Nehru University Act, 1966 (hereafter in this Chapter referred to as the Jawaharlal Nehru University Act), in Section 19, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

Amendment  
of Section  
20.

**7.** In Section 20 of the Jawaharlal Nehru University Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A copy of the accounts, together with the audit report, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

## CHAPTER V

### AMENDMENTS TO THE NORTH-EASTERN HILL UNIVERSITY ACT, 1973

Amendment  
of Section  
28.

**8.** In the North-Eastern Hill University Act, 1973 (hereafter in this Chapter referred to as the North-Eastern Hill University Act), in Section 28, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

Amendment  
of Section  
29.

**9.** In Section 29 of the North-Eastern Hill University Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) A copy of the annual accounts together with the report of Comptroller and Auditor-General, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

## CHAPTER VI

### AMENDMENT TO THE UNIVERSITY OF HYDERABAD ACT, 1974

Amendment  
of Section  
28.

**10.** In the University of Hyderabad Act, 1974, in Section 28, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.”.

THE DRUGS AND COSMETICS (AMENDMENT) ACT, 2008  
( ACT No. 26 OF 2008 )

*An Act further to amend the Drugs and Cosmetics Act, 1940.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title  
and  
commence-  
ment.

**1. (1)** This Act may be called the Drugs and Cosmetics (Amendment) Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint :

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Insertion of  
new Section  
17E.

**2.** After Section 17D of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act), the following section shall be inserted, namely,—

Adulterated  
cosmetics.

“17E. For the purposes of this Chapter, a cosmetic shall be deemed to be adulterated,—

(a) if it consists in whole or in part, of any filthy, putrid or decomposed substance; or

(b) if it has been prepared, packed or stored under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(c) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(d) if it bears or contains, for purposes of colouring only, a colour other than one which is prescribed; or

(e) if it contains any harmful or toxic substance which may render it injurious to health; or

(f) if any substance has been mixed therewith so as to reduce its quality or strength.”.

Amendment  
of Section  
18.

**3.** In Section 18 of the principal Act, in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely,—

“(ii) any cosmetic which is not of a standard quality, or is misbranded, adulterated or spurious;”.

Amendment  
of Section  
26A.

**4.** In Section 26A of the principal Act, for the word “prohibit”, the words “regulate, restrict or prohibit” shall be substituted.

Insertion of  
new  
Section  
26B.

5. After Section 26A of the principal Act, the following section shall be inserted, namely,—

Power of  
Central  
Government  
to regulate  
or restrict,  
manufacture,  
etc., of  
drug in  
public  
interest.

“26B. Without prejudice to any other provision contained in this Chapter, if the Central Government is satisfied that a drug is essential to meet the requirements of an emergency arising due to epidemic or natural calamities and that in the public interest, it is necessary or expedient so to do, then, that Government may, by notification in the Official Gazette, regulate or restrict the manufacture, sale or distribution of such drug.”.

Amendment  
of Section  
27.

6. In Section 27 of the principal Act,—

(i) in clause (a),—

(A) for the figures, letter and words “17B or which”, the figures, letter and words “17B and which” shall be substituted.

(B) for the words “punishable with imprisonment for a term which shall not be less than five years but which may extend to a term of life and with fine which shall not be less than ten thousand rupees;”, the words “punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than ten lakh rupees or three times value of the drugs confiscated, whichever is more:” shall be substituted.

(C) the following provisos shall be inserted, namely:—

“Provided that the fine imposed on and released from, the person convicted under this clause shall be paid, by way of compensation, to the person who had used the adulterated or spurious drugs referred to in this clause :

Provided further that where the use of the adulterated or spurious drugs referred to in this clause has caused the death of a person who used such drugs, the fine imposed on and realised from, the person convicted under this clause, shall be paid to the relative of the person who had died due to the use of the adulterated or spurious drugs referred to in this clause.

*Explanation.*—For the purposes of the second proviso, the expression “relative” means—

(i) spouse of the deceased person; or

(ii) a minor legitimate son, and unmarried legitimate daughter and a widowed mother; or

(iii) parent of the minor victim; or

(iv) if wholly dependent on the earnings of the deceased person at the time of his death, a son or a daughter who has attained the age of eighteen years; or

(v) any person, if wholly or in part, dependent on the earnings of the deceased person at the time of his death,—

(a) the parent; or

(b) a minor brother or an unmarried sister; or

(c) a widowed daughter-in-law; or

(d) a widowed sister; or

(e) a minor child of a pre-deceased son; or

(f) a minor child of a pre-deceased daughter where no parent of the child is alive; or

(g) the paternal grandparent if no parent of the member is alive;”;

(ii) in clause (b),—

(A) for the words “not be less than one year but which may extend to three years and with fine which shall not be less than five thousand rupees”, the words “not be less than three years but which may extend to five years and with fine which shall not be less than one lakh rupees or three times the value of the drugs confiscated, whichever is more” shall be substituted;

(B) in the proviso, for the words “less than one year and of fine of less than five thousand rupees”, the words “less than three years and of fine of less than one lakh rupees” shall be substituted;

(iii) in clause (c),—

(A) for the words “not be less than three years but which may extend to five years and with fine which shall not be less than five thousand rupees”, the words “not less than seven years but which may extend to imprisonment for life and with fine which shall not be three lakh rupees or three times the value of the drugs confiscated, whichever is more” shall be substituted;

(B) in the proviso, for the words “less than three years but not less than one year”, the words “less than seven years but not less than three years and of fine of less than one lakh rupees” shall be substituted;

(iv) in clause (d), for the words “and with fine”, the words “and with fine which shall not be less than twenty thousand rupees” shall be substituted.

Amendment  
of Section  
27A.

**7.** In Section 27A of the principal Act, for clauses (i) and (ii), the following clauses shall be substituted, namely,—

(i) any cosmetic deemed to be spurious under Section 17D or adulterated under Section 17E shall be punishable with imprisonment for a term which may extend to three years and with fine which shall not be less than fifty thousand rupees or three times the value of the cosmetics confiscated, whichever is more;

(ii) any cosmetic other than a cosmetic referred to in clause (i) in contravention of any provisions of this Chapter or any rule made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.”.

Amendment  
of Section  
28.

**8.** In Section 28 of the principal Act, for the words “with fine which may extend to one thousand rupees or with both”, the words “with fine which shall not be less than twenty thousand rupees or with both” shall be substituted.

Amendment  
of Section  
28A.

**9.** In Section 28A of the principal Act, for the words “with fine which may extend to one thousand rupees or with both”, the words “with fine which shall not be less than twenty thousand rupees or with both” shall be substituted.

Amendment  
of Section  
29.

**10.** In Section 29 of the principal Act, for the words “five hundred rupees”, the words “five thousand rupees” shall be substituted.

Amendment  
of Section  
30.

**11.** In Section 30 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a),—

(A) for the words “not be less than two years but which may extend to six years and with fine which shall not be less than ten thousand rupees”, the words “not be less than seven years but which may extend to ten years and with fine which shall not be less than two lakh rupees” shall be substituted;

(B) in the proviso, for the words “less than two years and of fine of less than ten thousand rupees”, the words “less than seven years and of fine of less than one lakh rupees” shall be substituted;

(ii) in clause (b), for the words “shall not be less than six years but which may extend to ten years and with fine which shall not be less than ten thousand rupees”, the words “shall not be less than ten years but which may extend to imprisonment for life and with fine which shall not be less than three lakh rupees” shall be substituted;

(iii) in clause (c), for the words “five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(b) in sub-section (2), for the words “ten years, or with fine, or with both”, the words “two years, or with fine which shall not be less than ten thousand rupees or with both” shall be substituted.

Amendment  
of Section  
32.

**12.** In Section 32 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

“(1) No prosecution under this Chapter shall be instituted except by—

(a) an Inspector; or

(b) any gazetted officer of the Central Government or a State Government authorised in writing in this behalf by the Central Government or a State Government by a general or special order made in this behalf by that Government; or

(c) the person aggrieved; or

(d) a recognised consumer association whether such person is a member of that association or not.

(2) Save as otherwise provided in this Act, no Court inferior to that of a Court of Session shall try an offence punishable under this Chapter.”.

Insertion of  
new  
Section  
32B.  
Compounding  
of certain  
offences.

**13.** After Section 32A of the principal Act, the following section shall be inserted, namely:—

“32B. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under clause (b) of sub-section (1) of Section 13, Section 28 and Section 28A of this Act (whether committed by a company or any officer thereof), not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by the Central Government or by any State Government or any officer authorised in this behalf by the Central Government or a State Government, on payment for credit to that Government of such sum as that Government may, by rules made in this behalf, specify: 2 of 1974.

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded:

Provided further that in cases of subsequent offences, the same shall not be compoundable.

(2) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed or, as the case may be, before which the appeal is to be heard.



(3) Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded and the offender, if in custody, shall be released forthwith.”.

Amendment  
of Section  
33.

**14.** In Section 33 of the principal Act, in sub-section (2),—

(i) after clause (dd), the following clause shall be inserted, namely,—

“(dda) prescribe under clause (d) of Section 17E the colour or colours which a cosmetic may bear or contain for the purposes of colouring;”,

(ii) in clause (p), the word “and” occurring at the end shall be omitted;

(iii) in clause (q), the word “and” shall be inserted at the end;

(iv) after clause (q), the following clause shall be inserted, namely,—

“(r) sum which may be specified by the Central Government under Section 32B.”.

Amendment  
of Section  
33-I.

**15.** In Section 33-I of the principal Act,—

(a) in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) any Ayurvedic, Siddha or Unani drug—

(i) deemed to be misbranded under Section 33E,

(ii) deemed to be adulterated under Section 33EE, or

(iii) without a valid licence or in violation of any of the conditions thereof, as required under Section 33EEC,

shall be punishable with imprisonment for a term which may extend to one year and with fine which shall not be less than twenty thousand rupees or three times the value of the drugs confiscated, whichever is more;”;

(ii) in clause (b), for the words “five thousand rupees”, occurring at both the places, the words “fifty thousand rupees or three times the value of the drugs confiscated, whichever is more” shall be substituted;

(iii) after clause (b), the following clause shall be inserted, namely:—

“(c) any Ayurvedic, Siddha or Unani drug in contravention of the provisions of any notification issued under Section 33EED shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees or three times the value of the drugs confiscated, whichever is more.”;

(b) in sub-section (2), for the words “three months and with fine which shall not be less than five hundred rupees”, the words “six months and with fine which shall not be less than ten thousand rupees” shall be substituted.

Amendment  
of Section  
33J.

**16.** In Section 33J of the principal Act,—

(a) in clause (a), for the words “two thousand rupees”, the words “fifty thousand rupees or three times the value of the drugs confiscated, whichever is more” shall be substituted;

(b) in clause (b), for the words “five thousand rupees” occurring at both the places, the words “one lakh rupees or three times the value of the drugs confiscated, whichever is more” shall be substituted;

(c) in clause (c), for the words “six months and with fine which shall not be less than one thousand rupees”, the words “one year and with fine which shall not be less than twenty thousand rupees or three times the value of the drugs confiscated, whichever is more” shall be substituted.

Insertion of  
new  
Sections  
33KA and  
33KB.

Disclosure  
of name of  
manufacturer,  
etc.

**17.** After Section 33K of the principal Act, the following sections shall be inserted, namely,—

“33KA. Every person, not being the manufacturer of any Ayurvedic, Siddha or Unani drug or his agent for the distribution thereof, shall, if so required, disclose to the Inspector the name, address and other particulars of the person from whom he acquired the Ayurvedic, Siddha or Unani drug.

Maintenance  
of records  
and  
furnishing  
of  
information.

33KB. Every person holding a licence under clause (c) of Section 33EEC shall keep and maintain such records, registers and other documents as may be prescribed and shall furnish to any officer or authority exercising any power or discharging any function under this Act such information as is required by such officer or authority for carrying out the purposes of this Act.”.

Amendment  
of Section  
33N.

**18.** In Section 33N of the principal Act, in sub-section (2),—

(i) in clause (gga), the word “and” occurring at the end shall be omitted;

(ii) after clause (gga), the following clause shall be inserted, namely,—

“(ggb) prescribe the records, registers or other documents to be kept and maintained under Section 33KB; and”.

Amendment  
of Section  
36A.

**19.** In Section 36A of the principal Act, for the words “all offences under this Act”, the words, brackets, figures and letters “all offences (except the offences triable by the Special Court under Section 36AB or Court of Session) under this Act” shall be substituted.

Insertion of  
new  
Sections  
36AB,  
36AC,  
36AD and  
36AE.  
Special  
Courts.

**20.** After Section 36A of the principal Act, the following sections shall be inserted, namely:—

‘36AB. (1) The Central Government, or the State Government, in consultation with the Chief Justice of the High Court, shall, for trial of offences relating to adulterated drugs or spurious drugs and punishable under clauses (a) and (b) of Section 13, sub-section (3) of Section 22, clauses (a) and (c) of Section 27, Section 28, Section 28A, Section 28B and clause (b) of sub-section (1) of Section 30 and other offences relating to adulterated drugs or spurious drugs, by notification, designate one or more Courts of Session as a Special Court or Special Courts for such area or areas or for such case or class or group of cases as may be specified in the notification.

*Explanation*—In this sub-section, “High Court” means the High Court of the State in which a Court of Session designated as Special Court was functioning immediately before such designation.

(2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

2 of 1974.

Offences to  
be  
cognizable  
and non-  
bailable in  
certain  
cases.

36AC. (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973,—

2 of 1974.

(a) every offence, relating to adulterated or spurious drug and punishable under clauses (a) and (c) of sub-section (1) of Section 13, clause (a) of sub-section (2) of Section 13, sub-section (3) of Section 22, clauses (a) and (c) of Section 27, Section 28, Section 28A, Section 28B and sub-sections (1) and (2) of Section 30 and other offences relating to adulterated drugs or spurious drugs, shall be cognizable.

(b) no person accused, of an offence punishable under clauses (a) and (c) of sub-section (1) of Section 13, clause (a) of sub-section (2) of Section 13, sub-section (3) of Section 22, clauses (a) and (c) of Section 27, Section 28, Section 28A, Section 28B and sub-sections (1) and (2) of Section 30 and other offences relating to adulterated drugs or spurious drugs, shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs.

(2) The limitation on granting of bail specified in clause (b) of sub-section (1) is in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail. 2 of 1974.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under Section 439 of the Code of Criminal Procedure, 1973 and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section includes also a reference to a "Special Court" designated under Section 36AB. 2 of 1974.

Application of Code of Criminal Procedure, 1973 to proceedings before Special Court.

36AD. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor. 2 of 1974.

Provided that the Central Government or the State Government may also appoint, for any case or class or group of cases, a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of Section 2 of the Code of Criminal Procedure, 1973 and the provisions of that Code shall have effect accordingly. 2 of 1974.

Appeal and revision.

36AE. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapter XXIX or Chapter XXX of the Code of Criminal Procedure, 1973, on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.' 2 of 1974.

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA  
ACT, 2008  
( ACT No. 27 OF 2008 )

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ARRANGEMENT OF SECTIONS

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## THE SCHEDULE.

## THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA

ACT, 2008

( ACT No. 27 OF 2008 )

*An Act*

*to provide for the establishment of an Airports Economic Regulatory Authority to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title,  
commence-  
ment and  
application.

1. (1) This Act may be called the Airports Economic Regulatory Authority of India Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies to—

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to or subject to the control of the Armed Forces or Paramilitary Forces of the Union;

(b) all private airports and leased airports;

(c) all civil enclaves;

(d) all major airports.

Definitions. 2. In this Act, unless the context otherwise requires—

(a) “aeronautical service” means any service provided—

(i) for navigation, surveillance and supportive communication thereto for air traffic management;

(ii) for the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;

(iii) for ground safety services at an airport;

(iv) for ground handling services relating to aircraft, passengers and cargo at an airport;

(v) for the cargo facility at an airport;

(vi) for supplying fuel to the aircraft at an airport; and

(vii) for a stake-holder at an airport, for which the charges, in the opinion of the Central Government for the reasons to be recorded in writing, may be determined by the Authority;



(b) "airport" means a landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes an aerodrome as defined in clause (2) of Section 2 of the Aircraft Act, 1934; 22 of 1934.

(c) "airport user" means any person availing of passenger or cargo facilities at an airport;

(d) "Appellate Tribunal" means the Airports Economic Regulatory Authority Appellate Tribunal established under Section 17;

(e) "Authority" means the Airports Economic Regulatory Authority established under sub-section (1) of Section 3;

(f) "civil enclave" means an area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

(g) "Chairperson" means the Chairperson of the Authority appointed under sub-section (2) of Section 4;

(h) "leased airport" means an airport in respect of which a lease has been made under Section 12A of the Airports Authority of India Act, 1994; 55 of 1994.

(i) "major airport" means any airport which has, or is designated to have, annual passenger throughput in excess of one and a half million or any other airport as the Central Government may, by notification, specify as such;

(j) "Member" means a Member of the Authority and includes the Chairperson;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "private airport" has the same meaning as assigned to it in clause (nn) of Section 2 of the Airports Authority of India Act, 1994; 55 of 1994.

(m) "regulations" means regulations made by the Authority under this Act;

(n) "service provider" means any person who provides aeronautical services and is eligible to levy and charge user development fees from the embarking passengers at any airport and includes the authority which manages the airport;

(o) "stake-holder" includes a licensee of an airport, airlines operating thereat, a person who provides aeronautical services, and any association of individuals, which in the opinion of the Authority, represents the passenger or cargo facility users ;

(p) words and expressions used but not defined in this Act and defined in the Airports Authority of India Act, 1994 shall have the same meanings respectively assigned to them in that Act. 55 of 1994.

## CHAPTER II

## THE AIRPORTS ECONOMIC REGULATORY AUTHORITY

Establishment  
of Authority.

3. (1) The Central Government shall, within three months from the date of commencement of this Act, by notification in the Official Gazette, establish an Authority, to be known as the Airports Economic Regulatory Authority, to exercise the powers conferred on, and the functions assigned to it, by or under this Act.

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

(3) The head office of the Authority shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

Composition  
of Authority.

4. (1) The Authority shall consist of a Chairperson and two other Member to be appointed by the Central Government:

Provided that whenever the Authority is deciding a matter involving a civil enclave in a defence airfield, there shall be an additional Member, not below the rank of Additional Secretary to the Government of India, to be nominated by the Ministry of Defence.

(2) The Chairperson and Members of the Authority shall be appointed by the Central Government from amongst persons of ability and integrity having adequate knowledge of, and professional experience in, aviation, economics, law, commerce or consumer affairs:

Provided that a person who is or has been in the service of Government shall not be appointed as a Member unless such person has held the post of Secretary or Additional Secretary to the Government of India or any equivalent post in the Central or State Government for a total period of not less than three years.

(3) The Chairperson and other Members shall be whole-time Members.

(4) The Chairperson or other Members shall not hold any other office.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The Chairperson and other Members of the Authority shall be appointed by the Central Government on the recommendation of Selection Committee referred to in Section 5.

Constitution  
of Selection  
Committee  
to  
recommend  
Members.

5. (1) The Central Government shall, for the purpose of sub-section (6) of Section 4 constitute a Selection Committee consisting of the following, namely:—

- |  |    |           |
|--|----|-----------|
| (a) Cabinet Secretary                            | .. | Chairman; |
| (b) Secretary, in the Ministry of Civil Aviation | .. | Member;   |

- (c) Secretary, Department of Legal Affairs in the Ministry of Law and Justice. . . Member;
- (d) Secretary, in the Ministry of Defence . . . Member;
- (e) One expert to be nominated by the Ministry of Civil Aviation. . . Member.

(2) The Central Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

Terms of office and other conditions of service, etc., of Chairperson and Members.

**6. (1)** The Chairperson and other Members, shall hold office, as such, for a term of five years from the date on which he enters upon his office, but shall not be eligible for re-appointment:

Provided that no Chairperson or other Member shall hold office, as such, after he attains —

- (a) in the case of the Chairperson, the age of sixty-five years; and
- (b) in the case of any other Member, the age of sixty-two years.

*Explanation*—for the purposes of this sub-section, a Member may be appointed as Chairperson of the Authority, but a person who has been the Chairperson shall not be eligible for appointment as a Member.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The salary, allowances and other conditions of service of the Chairperson and other Members shall not be varied to their disadvantage after their appointment.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may,—

- (a) relinquish his office by giving, in writing to the Central Government, a notice of not less than three months; or
- (b) be removed from his office in accordance with the provisions of Section 8.

(5) The Chairperson or any Member ceasing to hold office, as such, shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceases to hold such office;

(b) not accept any commercial employment including private for a period of two years from the date he ceases to hold such office; or

(c) not represent any person before the Authority in any other manner.

*Explanation*—for the purposes of this sub-section,—

(a) “employment under the Central Government or State Government” includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

(b) “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Power of  
Chairperson.

7. The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and functions of the Authority and shall discharge such other powers and functions as may be prescribed.

Removal  
and  
suspension  
of Members.

8. (1) The Central Government may, by order, remove from office the Chairperson or other Member, if the Chairperson or such other Member, as the case may be,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interest, as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(f) has engaged at any time during his term of office in any other employment.

(2) The Chairperson or any other Member shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehavior or incapacity after the Central Government has, on an inquiry held in accordance with the procedure prescribed in this behalf by the Central Government, come to the conclusion that the Member ought on any such ground to be removed.

(3) The Central Government may suspend any Member in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

Appointment  
of  
Secretary,  
experts,  
professionals  
and officers  
and other  
employees  
of Authority.

**9. (1)** The Central Government may appoint a Secretary to discharge his functions under this Act.

(2) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to and other terms and conditions of service of the Secretary and officers and other employees of the Authority and the number of such officers and other employees shall be such as may be prescribed.

(4) The Authority may engage, in accordance with the procedure specified by regulations such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, economics, law, business or such other disciplines related to aviation as it deems necessary to assist the Authority in the discharge of its functions under this Act.

Meetings.

**10. (1)** The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be determined by regulations.

(2) The Chairperson shall preside at the meeting of the Authority and if for any reason the Chairperson is unable to attend a meeting of the Authority, any other Member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting and, in the event of an equality of votes, the Chairperson or the Member presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (1), every Member shall have one vote.

Authentication.

**11.** All orders and decisions of the Authority shall be authenticated by signatures of the Secretary or any other officer of the Authority, duly authorised by the Authority in this behalf.

Vacancies,  
etc., not to  
invalidate  
proceedings  
of Authority.

**12.** No act or proceedings of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Authority; or

(b) any defect in the appointment of a person acting as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

### CHAPTER III

#### POWERS AND FUNCTIONS OF THE AUTHORITY

Functions of  
Authority.

**13. (1)** The Authority shall perform the following functions in respect of major airports, namely:—

(a) to determine the tariff for the aeronautical services taking into consideration—

(i) the capital expenditure incurred and timely investment in improvement of airport facilities ;

(ii) the service provided, its quality and other relevant factors;

(iii) the cost for improving efficiency;

(iv) economic and viable operation of major airports;

(v) revenue received from services other than the aeronautical services;

(vi) the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;

(vii) any other factor which may be relevant for the purposes of this Act:

Provided that different tariff structures may be determined for different airports having regard to all or any of the above considerations specified at sub-clauses (i) to (vii);

(b) to determine the amount of the development fees in respect of major airports;

(c) to determine the amount of the passengers service fee levied under Rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934;

(d) to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf;

(e) to call for such information as may be necessary to determine the tariff under clause (a);

(f) to perform such other functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act

(2) The Authority shall determine the tariff once in five years and may if so considered appropriate and in public interest, amend, from time to time during the said period of five years, the tariff so determined.

(3) While discharging its functions under sub-section (1), the Authority shall not act against the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(4) The Authority shall ensure transparency while exercising its powers and discharging its functions, *inter alia*,—

(a) by holding due consultations with all stake-holders with the airport;

(b) by allowing all stake-holders to make their submissions to the authority; and

(c) by making all decisions of the authority fully documented and explained.

Powers of Authority to call for information, conduct investigations, etc.

**14. (1)** Where the Authority considers it expedient so to do it may by order in writing—

(a) call upon any service provider at any time to furnish in writing such information or explanation relating to its functions as the Authority may require to access the performance of the service provider; or

(b) appoint, one or more persons to make an inquiry in relation to the affairs of any service provider; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any service provider.

(2) Where any inquiry in relation to the affairs of a service provider has been undertaken under sub-section (1)—

(a) every office of the Government department, if such service provider is a department of the Government; or

(b) every director, manager, secretary or other officer, if such service provider is a company; or

(c) every partner, manager, secretary or other officer, if such service provider is a firm; or

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (b) or (c),



shall be bound to produce before the Authority making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject matter of such inquiry and also to furnish to the Authority with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified.

(3) Every service provider shall maintain such books of account or other documents as may be prescribed.

(4) The Authority shall have the power to issue such directions to monitor the performance of the service providers as it may consider necessary for proper functioning by service providers.

Power of Authority to issue certain directions.

**15.** The Authority may, for the purpose of discharge of its functions under this Act, issue, from time to time to the service providers, such directions, as it may consider necessary.

Power of seizure.

**16.** The Authority or any other officer specially authorised by it in this behalf may enter any building or place where the Authority has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973 in so far as they may be applicable.

2 of 1974.

## CHAPTER IV

### APPELLATE TRIBUNAL

Establishment of Appellate Tribunal.

**17.** The Central Government shall, by notification in the Official Gazette, establish an Appellate Tribunal to be known as the Airports Economic Regulatory Authority Appellate Tribunal to—

(a) adjudicate any dispute—

(i) between two or more service providers;

(ii) between a service provider and a group of consumer:

Provided that the Appellate Tribunal may, if considers appropriate, obtain the opinion of the Authority on any matter relating to such dispute:

Provided further that nothing in this clause shall apply in respect of matters—

(i) relating to the monopolistic trade practice, restrictive trade practice and unfair trade practice which are subject to the jurisdiction of the Monopolies and Restrictive Trade Practices Commission established under sub-section (1) of Section 5 of the Monopolies and Restrictive Trade Practices Act, 1969;

54 of 1969.

(ii) relating to the complaint of an individual consumer maintainable before a Consumer Disputes Redressal Forum or a Consumer Disputes Redressal Commission or the National Consumer Redressal Commission established under Section 9 of the Consumer Protection Act, 1986;

68 of 1986.



(iii) which are within the purview of the Competition Act, 12 of 2003. 2002;

(iv) relating to an order of eviction which is appealable under Section 28K of the Airports Authority of India Act, 1994. 55 of 1994.

(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act.

Application  
for  
settlement  
of disputes  
and appeals  
to Appellate  
Tribunal.

**18. (1)** The Central Government or a State Government or a local authority or any person may make an application to the Appellate Tribunal for adjudication of any dispute as referred to in clause (a) of Section 17.

(2) The Central Government or a State Government or a local authority or any person aggrieved by any direction, decision or order made by the Authority may prefer an appeal to the Appellate Tribunal.

(3) Every appeal under sub-section (2) shall be preferred within a period of thirty days from the date on which a copy of the direction or order or decision made by the Authority is received by the Central Government or the State Government or the local authority or the aggrieved person and it shall be in such form, verified in such manner and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an application under sub-section (1) or an appeal under sub-section (2), the Appellate Tribunal may, after giving the parties to the dispute or the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the dispute or the appeal and to the Authority, as the case may be.

(6) The application made under sub-section (1) or the appeal preferred under sub-section (2) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the application or appeal finally within ninety days from the date of receipt of application or appeal, as the case may be:

Provided that where any such application or appeal could not be disposed of within the said period of ninety days, the Appellate Tribunal shall record its reasons in writing for not disposing of the application or appeal within that period.

(7) The Appellate Tribunal may, for the purpose of examining the legality or propriety or correctness, of any dispute made in any application under sub-section (1), or of any direction or order or decision of the Authority referred to in the appeal preferred under sub-section (2), on its own motion or otherwise, call for the records relevant to disposing of such application or appeal and make such orders as it thinks fit.

Composition  
of Appellate  
Tribunal.

**19. (1)** The Appellate Tribunal shall consist of a Chairperson and not more than two Members to be appointed, by notification in the Official Gazette, by the Central Government:

Provided that the Chairperson or a Member holding a post as such in any other Tribunal, established under any law for the time being in force, in addition to his being the Chairperson or a Member of that Tribunal, may be appointed as the Chairperson or a Member, as the case may be, of the Appellate Tribunal under this Act.

(2) The selection of Chairperson and Members of the Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India or his nominee.

Qualifications  
for  
appointment  
of  
Chairperson  
and  
Members.

**20.** A person shall not be qualified for appointment as the Chairperson or a Member of the Appellate Tribunal unless he—

(a) in the case of Chairperson, is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court;

(b) in the case of a Member, has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a total period of not less than two years in the Ministries or Departments dealing with aviation or economics or law or a person who is well-versed in the field of aviation or economics or law.

Term of  
office.

**21.** The Chairperson and every other Member of the Appellate Tribunal shall hold office as such for a term not exceeding three years from the date on which he enters upon his office:

Provided that no Chairperson or other Member shall hold office as such after he has attained—

(a) in the case of Chairperson, the age of seventy years;

(b) in the case of any other Member, the age of sixty-five years.

Terms and  
conditions  
of service.

**22.** The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member of the Appellate Tribunal shall be varied to his disadvantage after appointment.

Vacancies.

**23.** If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or a Member of the Appellate Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Appellate Tribunal from the stage at which the vacancy is filled.

Removal  
and  
resignation.

**24. (1)** The Central Government may remove from office, the Chairperson or any Member of the Appellate Tribunal, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member of the Appellate Tribunal shall not be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the Central Government, has, on an enquiry, held by it in accordance with such procedure as it may specify in this behalf, reported that the Chairperson or a Member ought, on such grounds, to be removed.

(3) The Central Government may suspend from office, the Chairperson or a Member of the Appellate Tribunal in respect of whom a reference has been made to the Supreme Court under sub-section (2), until the Central Government has passed an order on receipt of the report of the Supreme Court on such reference.

Staff of  
Appellate  
Tribunal.

**25. (1)** The Central Government shall provide the Appellate Tribunal with such officers and employees as it may deem fit.

(2) The officers and employees of the Appellate Tribunal shall discharge their functions under the general superintendence of its Chairperson.

(3) The salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal shall be such as may be prescribed.

Decision to  
be by  
majority.

**26.** If the Chairperson and other Members differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

Members,  
etc., to be  
public  
servants.

**27.** The Chairperson, Members and other officers and employees of the Appellate Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

45 of 1860.

Civil Court  
not to have  
jurisdiction.

**28.** No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Procedure  
and powers  
of Appellate  
Tribunal.

**29. (1)** The Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, the Appellate Tribunal shall have powers to regulate its own procedure. 5 of 1908.

(2) The Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872 requisitioning any public record or document or a copy of such record or document from any office; 1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it, *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it, *ex parte*; and

(i) any other matter which may be prescribed.

(3) Every proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228, and for the purposes of Section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a Civil Court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860.  
2 of 1974.

Right to legal  
representation.

**30.** The applicant or appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

*Explanation.*— For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; 38 of 1949.

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of Section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; 56 of 1980.

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of Section 2 of the Cost and Works Accountants Act, 1959, and who has obtained a certificate of practice under sub-section (1) of Section 6 of that Act; 23 of 1959.

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

Appeal to  
Supreme  
Court.

**31. (1)** Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law, an appeal shall lie against any order, not being an interlocutory order, of the Appellate Tribunal to the Supreme Court on one or more of the grounds specified in Section 100 of that Code. 5 of 1908.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of ninety days from the date of the decision or order appealed against:

Provided that the Supreme Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

Orders  
passed by  
Appellate  
Tribunal to  
be  
executable  
as a decree.

**32. (1)** An order passed by the Appellate Tribunal under this Act shall be executable by the Appellate Tribunal as a decree of Civil Court, and for this purpose, the Appellate Tribunal shall have all the powers of a Civil Court.

(2) Notwithstanding anything contained in sub-section (1), the Appellate Tribunal may transmit any order made by it to a Civil Court having local jurisdiction and such Civil Court shall execute the order as if it were a decree made by that Court.

## CHAPTER V

### FINANCE, ACCOUNTS AND AUDIT

Budget.

**33.** The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government for information.

Grants by  
Central  
Government.

**34.** The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses including the salaries and allowances and pension payable to or in respect of officers and other employees of the Authority.

Annual  
statement of  
accounts.

**35. (1)** The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him.

(3) The Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights, privileges and authority in connection with such audit, as the Comptroller and Auditor-General of India generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Furnishing of returns, etc., to Central Government.

**36.** (1) The Authority shall furnish to the Central Government, at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may, from time to time, require.

(2) The Authority shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

## CHAPTER VI

### OFFENCES AND PENALTIES

Penalty for wilful failure to comply with orders of Appellate Tribunal.

**37.** If any person wilfully fails to comply with the order of the Appellate Tribunal, he shall be punishable with fine which may extend to one lakh rupees and in case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of continuing contravention with additional fine which may extend to two lakh rupees for every day during which such default continues.

Punishment for non-compliance of orders and directions under this Act.

**38.** Whoever fails to comply with any order or direction given under this Act, or contravenes, or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder shall be punishable with fine which may extend to one lakh rupees and in the case of a second or subsequent offence with fine which may extend to two lakh rupees and in the case of a continuing contravention with an additional fine which may extend to four thousand rupees for every day during which the default continues.



Punishment for non-compliance with order of Authority or Appellate Tribunal.

**39.** If any person wilfully fails to comply with an order of the Authority or of the Appellate Tribunal, passed under Chapter IV, he shall be punishable with fine which may extend to one lakh rupees and, in the case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of a continuing failure, with an additional fine which may extend to four thousand rupees for every day during which such failure continues.

Offences by companies.

**40. (1)** Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” means a whole-time director in the company and in relation to a firm means a partner in the firm.

Offences by Government Departments.

**41. (1)** Where an offence under this Act has been committed by any Department of Government or any of its undertakings, the Head of the Department or its undertakings shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by any Department of Government or its undertakings and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, or its undertakings, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## CHAPTER VII

## MISCELLANEOUS

Directions by Central Government. **42. (1)** The Central Government may, from time to time, issue to the Authority such directions as it may think necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this subsection.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

Members, officers and employees of Authority to be public servants. **43.** The Chairperson, Members, officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Section 21 of the Indian Penal Code. 45 of 1860.

Bar of jurisdiction. **44.** No Civil Court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine.

Protection of action taken in good faith. **45.** No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any Member, officer or other employees thereof for anything which is in good faith done or intended to be done under this Act or the rules and regulations made thereunder.

Exemption from tax on wealth and income. **46.** Notwithstanding anything contained in the Wealth-Tax Act, 1957, the Income-Tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Authority shall not be liable to pay Wealth-Tax, Income-Tax or any other tax in respect of their wealth, income, profits or gains derived. 27 of 1957. 43 of 1961.

Cognizance of offences. **47.** No court shall take cognizance of an offence punishable under this Act, except upon a complaint in writing made by the Authority or by any officer of the Authority duly authorised by the Authority for this purpose.

Delegation of powers. **48.** The Authority may, by general or special order in writing, delegate to the Chairperson or any Member or officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes and the power to make regulations), as it may deem necessary.



Power of  
Central  
Government  
to  
supersede  
Authority.

**49. (1)** If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of which default, the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification :

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show-cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the Members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(b) reconstitute the Authority by fresh appointment and in such case the Members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Application  
of other  
laws not  
barred.

**50.** The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to  
make rules.

**51.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) in particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) the salary and allowances payable to, and the other conditions of service of, the Chairperson and other Members under sub-section (2) of Section 6;

(b) the form and manner in which and the Authority before whom the oath of office and secrecy shall be made and subscribed under sub-section (4) of Section 6;

(c) the powers and functions to be exercised or discharged by the Chairperson under Section 7;

(d) the procedure for conducting any inquiry made under sub-section (2) of Section 8;

(e) the salaries and allowances payable to, and the other terms and conditions of service of the Secretary, officers and other employees of the Authority under sub-section (3) of Section 9;

(f) the performance standards relating to the quality, continuity and reliability of service to be monitored under clause (d) of sub-section (1) of Section 13;

(g) the books of account or other documents which are required to be maintained by the service provider under sub-section (3) of Section 14;

(h) the form and manner in which the form shall be verified and fee to be accompanied by the form under sub-section (3) of Section 18;

(i) the salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members of the Appellate Tribunal under Section 22;

(j) the salaries and allowances and other conditions of service of such officers and employees of the Appellate Tribunal under sub-section (3) of Section 25;

(k) the matters in respect of which the Authority will have the powers of a Civil Court under clause (a) of sub-section (2) of Section 29;

(l) the form in which the Authority shall prepare, and at such time in each financial year, its budget and the time at which such budget shall be prepared under Section 33;

(m) the form in which proper accounts and other relevant records shall be maintained and the annual statement of accounts shall be prepared by the Authority under sub-section (1) of Section 35;

(n) the form, manner and the time in which the returns and statements shall be furnished by the Authority under sub-section (1) of Section 36;

(o) the form and time at which the annual report shall be prepared by the Authority under sub-section (2) of Section 36;

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

Power to  
make  
regulations.

**52.** (1) The Authority may, by notification in the Official Gazette, and with the previous approval of the Central Government, make regulations, not inconsistent with this Act, and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure in accordance with which the experts and professionals may be engaged under sub-section (4) of Section 9;

(b) the places and time of meetings of the Authority and the procedure to be followed at such meetings, (including the quorum at its meetings) under sub-section (1) of Section 10;

(c) any other matter which is required to be, or may be, specified by regulations.

Rules and regulations to be laid before Parliament.

**53.** Every rule made by the Central Government, and every regulation made by the Authority, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Amendment of certain enactments.

**54.** The enactments specified in the Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Authority.

Power to remove difficulties.

**55. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## THE SCHEDULE

[ See Section 54 ]

AMENDMENT TO THE AIRCRAFT ACT, 1934

( 22 OF 1934 )

Section 5, sub-section (2), clause (ab), for “or revision on tariff of operators of air transport services”, substitute “or revision on tariff of operators of air transport services [other than the tariff referred to in clause (a) of sub-section (1) of Section 13 of the Airports Economic Regulatory Authority of India Act, 2008]”.

AMENDMENT TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

(55 OF 1994)

1. Section 22A, for the portion beginning with the words “The Authority may” and ending with the words “for the purposes of—”, substitute the following :—

“The Authority may,—

(i) after the previous approval of the Central Government in this behalf, levy on, and collect from, the embarking passengers at an airport other than the major airports referred to in clause (h) of Section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be prescribed;

(ii) levy on, and collect from, the embarking passengers at major airport referred to in clause (h) of Section 2 of the Airports Economic Regulatory Authority of India Act, 2008 the development fees at the rate as may be determined under clause (b) of sub-section (1) of Section 13 of the Airports Economic Regulatory Authority of India Act, 2008,

and such fees shall be credited to the Authority and shall be regulated and utilised in the prescribed manner, for the purposes of— “

2. Section 41, in sub-section (2), clause (ee), for “the rate of development fees and”, substitute—

“the rate of development fees in respect of airports other than major airports and”.

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The above Acts have been passed by the Houses of Parliament.