

PROFESSIONAL OPPORTUNITIES IN CIVIL AVIATION SECTOR



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INTRODUCTION

'Aviation' is both the art and science of flying as well as the design, development, production and maintenance of aircraft. 'Civil' implies 'of ordinary citizens or ordinary community life as distinguished from the military'.

Therefore, civil aviation represents all non-Military aviation, both private and commercial.

The Aviation industry in India is one of the fastest growing sectors globally.

The Ministry of Civil Aviation is responsible for formulation of national policies and programmes for the development and regulation of the Civil Aviation sector in the country. It is responsible for the administration of the Aircraft Act, 1934, Aircraft Rules, 1937 and various other legislations pertaining to the aviation sector in the country. This Ministry exercises administrative control over attached and autonomous organizations like the Directorate General of Civil Aviation, Bureau of Civil Aviation Security and Indira Gandhi Rashtriya Udan Academy and affiliated Public Sector Undertakings like National Aviation

Company of India Limited, Airports Authority of India and Pawan Hans Helicopters Limited. The Commission of Railway Safety, which is responsible for safety in rail travel and operations in terms of the provisions of the Railways Act, 1989 also comes under the administrative control of this Ministry.

The Directorate General of Civil Aviation (DGCA) is the regulatory body in the field of Civil Aviation, primarily dealing with safety issues. It is responsible for regulation of air transport services to/from/within India and for enforcement of civil air regulations, air safety, and airworthiness standards. The DGCA also coordinates all regulatory functions with the International Civil Aviation Organisation (ICAO).

LAWS GOVERNING CIVIL AVIATION

Acts

1. Aircraft Act, 1934 (XXII of 1934)
2. Airport Authority of India Act, 1994
3. Air Corporations (Transfer of Undertakings and Repeal) Act, 1994.
4. The Airports Economic Regulatory Authority of India Act, 2008

Rules

Aircargo Security Rules 2011

AERA, Appellate Tribunal (Forms for Application and Appeal and Fee) Rules, 2010

AERA Appellate Tribunal (Salaries and Allowances and Other Terms and Conditions of Service of the Chairperson and Other Members) Rules, 2011

AERA Employees (number of posts and conditions of service) Rules, 2011

Airports Authority of India (Major Airports) Development Fees Rules, 2011

Aircraft Rules - 1937

Airports Economic Regulatory Authority of India (Salaries, Allowances and Other Conditions of Service of the Chairperson and Members) Amendment Rules, 2010.

Airports Economic Regulatory Authority of India (Salary, Allowances and Other Conditions of Services of Secretary) Rules, 2009.

Airports Economic Regulatory Authority of India (Salaries, Allowances and

Other Conditions of Service of the Chairperson and Members) Rules, 2009.

Airports Authority of India (Annual Report and Annual Statement of Accounts)Rules, 2003

Airports Authority of India (Conditions of Service of the Chairman and Other Members) Rules,2003

Airports Authority of India (Manner of Investment of Funds) Rules, 2002

Policies

1. Domestic Air Transport

- Categories of Air Transport Services
- Public Private Partnership in Airport Infrastructure
- Foreign Equity Participation in Air Transport Services
- Requirements for Becoming Air Cargo Operator
- Procedure for starting Scheduled/Non Scheduled Air
- Transport Services
- Route Dispersal Guidelines

2. Airport Infrastructure

3. Inclusive Tour Package Charter Flight

4. Guidelines for setting up of Greenfield Airports

5. Removal of Restrictions on Photography

6. Policy on Airport Infrastructure August 2011

THE AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA ACT, 2008 (AERA)

AERA Act, 2008, was enacted by Parliament and was notified in the Gazette of India vide Gazette No.36 dated 05.12.2008.

The Act provides for the establishment of an Airports Economic Regulatory Authority (AERA) to regulate tariff and other charges for the aeronautical services rendered at airports and to monitor performance standards of airports.

Thus, AERA is the economic regulator of the airport infrastructure sector and air navigation services in the country

All provisions of AERA Act, except chapter III and chapter VI, came into force on 1st day of January 2009. The provisions of Chapter III and VI also came into force from first day of September,2009.

The Airports Economic Regulatory Authority (AERA) is a statutory body constituted under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008) notified vide Gazette Notification dated 5th December 2008. The AERA was established by the Government vide its notification no GSR 317 (E) dated 12.05.09 with its head office at Delhi.

The statutory functions of the AERA as enshrined in the Airports Economic Regulatory Authority of India Act, 2008 are as below:

- 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.
- 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 authorized 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.

Important points under the Act:

1. Aeronautical charges are the tariff for providing the aeronautical services.
2. Under Section 2(a) of the Act "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;
3. Passenger Service Fee (PSF) : Passenger Service Fee is levied under rule 88 of the Indian Aircraft Rules 1937 which is collected by licensee from embarking passengers. It has two components, namely, Security Component and Facilitation Component. Security Component is utilised for incurring the expenditure in respect of the Aviation Security Force deployed at the airports and related equipments. The Facilitation Component is appropriated by the airport operator (s) towards services provided to the passengers at the airport. Further, Section 22 of the Airports Authority of India Act 1994 (AAI Act) empowers the AAI to charge fees for the amenities given to the passengers and visitors at any airport, civil enclave, heliport or airstrip.
4. Development Fee (DF) : Development Fee (DF) is levied on embarking passengers at an airport at the rate as may be prescribed by Central Government, as per Airports Authority of India Act, 1994 (Section 22A) for following purposes:
 - a. Funding or financing the costs of upgradation, expansion or development of the airport at which the fee is collected; or
 - b. Establishment or development of a new airport in lieu of the airport referred to in clause (a); or
 - c. Investment in the equity in respect of shares to be subscribed by the Authority

in companies engaged in establishing, owning, developing, operating or maintaining a private airport in lieu of the airport referred to in clause (a) or advancement of loans to such companies or other persons engaged in such activities.

It is a 'pre-funding' measure. In terms of Section 13(1)(b) of the AERA Act, AERA is required to determine the amount of development fee in respect of major airports.

5. What is User Development Fee(UDF) :User Development Fee is levied under rule 89 of the Aircraft rules 1937. Though the rule does not prescribe the specific purpose of levy, UDF is conventionally levied to ensure fair return to the airport operators on the investments made for providing airport services. In other words, UDF is a revenue enhancing measure to cover any deficit in revenues so as to ensure fair return on investment.

CIVIL AVIATION ECONOMIC ADVISORY COUNCIL (CAEAC)

Under the Ministry of Civil Aviation's Order (F. No. AV. 13030/06/2010-DT), the Civil Aviation Economic Advisory Council (CAEAC), set up vide order of even no. dated 9th December, 2010, has been re-constituted.

The Terms of Reference (TOR) of this Civil Aviation Economic Advisory Council (CAEAC) are as under:

- (i) Shall advise a suitable policy framework for ensuring affordable air service to remote underserved areas in the country.
- (ii) Shall advise the Ministry in framing an appropriate regulatory frame to ensure sustainability and viability of air transport services in India.
- (iii) Shall assess the investment requirements and advise measures to boost investment in the Civil Aviation in India.
- (iv) Shall advise on all fiscal levis, charges and other budgetary matters connected with the Civil Aviation Sector.
- (v) Shall advise on comprehensive Regulatory Framework to protect consumer interest like Public disclosure of tariffs and conditions of service to passengers.
- (vi) Shall advise on approaches to evolve a Policy framework for liberalization of International air services.

Additional Guidelines

(i) The Council may also form sub-Groups on various subject matters covered in the Terms of Reference.

(ii) The Council may also co-opt additional experts as and when considered necessary. Airlines & airports can be invited as special invitees as and when required.

3. The Civil Aviation Economic Advisory Council (CAEAC) shall meet once in every quarter, deliberate on these issues and advise the Ministry of Civil Aviation from time-to-time.

PROFESSIONAL OPPORTUNITIES

1. Under the Airports Economic Regulatory Authority of India Act, 2008, which was notified on 5th December 2008:

a. Assist the Service providers providing aeronautical services in the effective implementation of the Act

b. Legal Representation before the Appellate Tribunal:

- Under the AERA Act 2008, the Airports Economic Regulatory Authority Appellate Tribunal has been established to adjudicate any dispute
 - (i) between two or more service providers or
 - (ii) between a service provider and a group of consumer; and hear and dispose of appeal against any direction, decision or order of the Authority under this Act.
- The applicant or appellant may either appear in person or authorise one or more chartered accountants to present his or its case before the Appellate Tribunal.

2. Application for grant of permit to operate scheduled passenger air transport service. Renewal of Operating Permit

3. Assistance in grant of No Objection Certificate (NOC) and approval of Foreign Investment Promotion Board (FIPB) if foreign investment is envisaged.

4. Prior permission of DGCA/Ministry of Civil Aviation is required for many cases like:

- Change in the name of the Company;

- Establishing the required maintenance and other facilities for the type inducted,
- Change in management of the Company arising out of changes in the equity holdings of the Company;
- Take over of the Company by another Company

5. Advice and assistance in compliance with the various legislations

6. Representation on Civil Aviation Economic Advisory Council (CAEAC)

USEFUL WEBSITES

Ministry of Civil Aviation
<http://civilaviation.nic.in/>

About the Author

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Mr. Rajkumar S Adukia is an eminent business consultant, academician, writer, and speaker. A senior partner of Adukia & Associates he has authored more than 34 books on a wide range of subjects. His books on IFRS namely, "Encyclopedia on IFRS (3000 pages) and The Handbook on IFRS (1000 pages) has served number of professionals who are on the lookout for a practical guidance on IFRS. The book on "Professional Opportunities for Chartered Accountants" is a handy tool and ready referencer to all Chartered Accountants.

In addition to being a Chartered Accountant, Company Secretary, Cost Accountant, MBA, Dip IFR (UK), Mr. Adukia also holds a Degree in Law and Diploma in Labor Laws. He has been involved in the activities of the Institute of Chartered Accountants of India (ICAI) since 1984 as a convenor of Kalbadevi CPE study circle. He was the Chairman of the Western Region of Institute of Chartered Accountants of India in 1997 and has been actively involved in various committees of ICAI. He became a member of the Central Council in 1998 and ever since he has worked tirelessly towards knowledge sharing, professional development and enhancing professional opportunities for members. He is a regular contributor to the various committees of the ICAI. He is currently the Chairman of Committee for Members in Industry and Internal Audit Standard Board of ICAI.

Mr. Adukia is a rank holder from Bombay University. He did his graduation from Sydenham College of Commerce & Economics. He received a Gold Medal for highest marks in Accountancy & Auditing in the Examination. He passed the Chartered Accountancy with 1st Rank in Inter CA & 6th Rank in Final CA, and 3rd Rank in Final Cost Accountancy Course in 1983. He started his practice as a Chartered Accountant on 1st July 1983, in the three decades following which he left no stone unturned, be it academic expertise or professional development. His level of knowledge, source of information, professional expertise spread across a wide range of subjects has made him a strong and sought after professional in every form of professional assignment. He has been coordinating with various professional institutions, associations' universities, University Grants Commission and other educational institutions. Besides he has actively participated with accountability and standards-setting organizations in India and at the international level. He was a member of J.J. Irani committee which drafted Companies Bill 2008. He is also member of Secretarial Standards Board of ICSI. He represented ASSOCHAM as member of Cost Accounting Standards Board of ICWAI. He was a member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

He has served on the Board of Directors in the capacity of independent director at BOI Asset management Co. Ltd, Bharat Sanchar Nigam Limited and SBI Mutual Funds Management Pvt Ltd. He was also a member of the London Fraud Investigation Team. Mr. Rajkumar Adukia specializes in IFRS, Enterprise Risk Management, Internal Audit, Business Advisory and Planning, Commercial Law Compliance, XBRL, Labor Laws, Real Estate, Foreign Exchange Management, Insurance, Project Work, Carbon Credit, Taxation and Trusts. His clientele include large corporations, owner-managed companies, small manufacturers, service businesses, property management and construction, exporters and importers, and professionals. He has undertaken specific assignments on fraud investigation and reporting in the corporate sector and has developed background material on the same.

Based on his rich experience, he has written numerous articles on critical aspects of finance-accounting, auditing, taxation, valuation, public finance. His authoritative

articles appear regularly in financial papers like Business India, Financial Express, Economic Times and other professional / business magazines. He has authored several accounting and auditing manuals. He has authored books on vast range of topics including IFRS, Internal Audit, Bank Audit, Green Audit, SEZ, CARO, PMLA, Antidumping, Income Tax Search, Survey and Seizure, Real Estate etc. His books are known for their practicality and for their proactive approaches to meeting practice needs.

Mr. Rajkumar is a frequent speaker on trade and finance at seminars and conferences organized by the Institute of Chartered Accountants of India, various Chambers of Commerce, Income Tax Offices and other Professional Associations. He has also lectured at the S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA students and Direct Taxes Regional Training Institute of CBDT. He also develops and delivers short courses, seminars and workshops on changes and opportunities in trade and finance. He has extensive experience as a speaker, moderator and panelist at workshops and conferences held for both students and professionals both nationally and internationally.. Mr. Adukia has delivered lectures abroad at forums of International Federation of Accountants and has travelled across countries for professional work.

Professional Association: *Mr. Rajkumar S Adukia with his well chartered approach towards professional assignments has explored every possible opportunity in the fields of business and profession. Interested professionals are welcome to share their thoughts in this regard.*