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30
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Aviation/ Aerospace Roundup

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I. REGULATIONS CHECK

The Indian Aircraft (Public Health) Rules, 2015

The International Health Regulations (IHR) (2005) provided a legal framework for ensuring global health security. This was done, on one hand, to prevent and provide a public health response to the international spread of diseases and, on the other hand, to not interfere with international traffic and trade. This regulation came into effect from June 15th 2007 and since 2009 India also started implementing this in the wake of the pandemic H1N1. In light of this and in exercise of the powers conferred under section 8A of the Aircraft Act, 1934, the Ministry of Health and Family Welfare proposed draft of the Indian Aircraft (Public Health) Rules, 2015 ("**Aircraft PH Rules**") in supersession of the Indian Airport (Public Health) Rules, 1954.

This write-up discusses the contents of the Aircraft PH Rules and highlights the responsibilities of the government, health officers at the airports, the pilot-in-command and the requirements that any aircraft arriving or leaving India or even within India has to complete. These requirements are necessary as non-compliance would lead to penalties as prescribed under the Aircraft PH Rules.

1. Role of Central Government

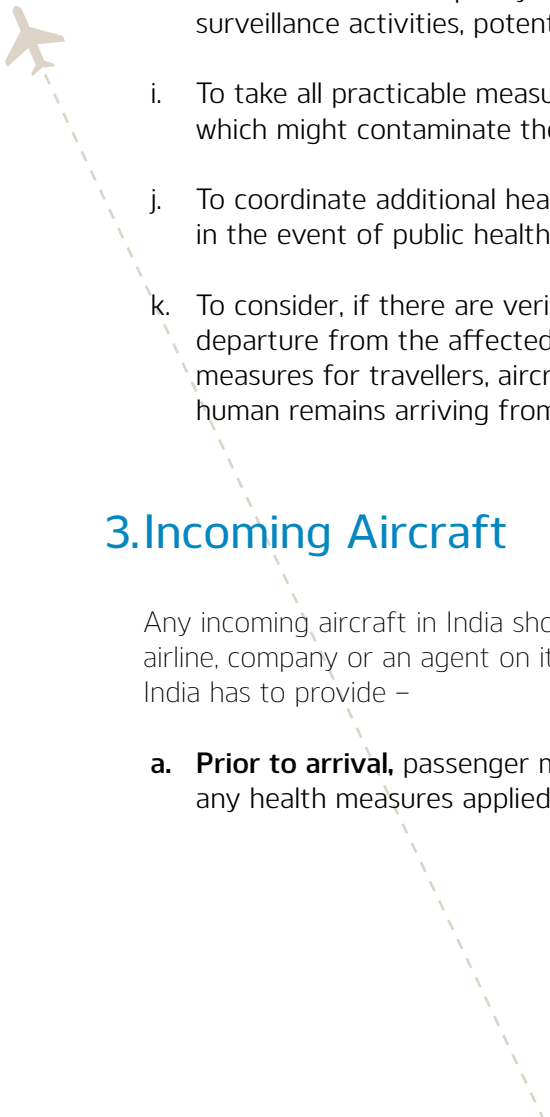
Under the draft Aircraft PH Rules, the central government has the responsibility of designating a National IHR focal point for the implementation of health measures that the Aircraft PH Rules provides for and to notify occurrence of public health emergency of international concern. Government needs to constitute a task force to deal with such occurrence of public health emergency of international concern or any other infection disease. The National IHR focal point has the responsibility to –

- a. Coordinate the public health response within the country;
- b. Report occurrence of public health emergency of international concern to the contact point designated by the WHO; and
- c. Disseminate information to, and consolidate input from, the concerned government departments dealing with surveillance and reporting, points of entry, public health services, clinics and hospitals.

2. Role of Airport health officer

The Aircraft PH Rules defines "Airport health officer" as "*the officer appointed by the Central Government or any other officer appointed by the Central Government to perform the functions as airport health officer.*" The airport health officer has the following responsibilities –

- a. Surveillance and application of public health measures at the airports, including health screening and medical examination of the travellers, if necessary;

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- b. Inspection of baggage, cargo, containers, aircraft or conveyances, facilities, goods and postal parcels, human remains and relevant documents, whenever necessary;
 - c. To supervise and coordinate with the concerned agency to ensure that facilities used by travellers are maintained in a sanitary and hygienic condition including potable water supplies, public wash rooms, appropriate liquid and solid waste disposal facilities and are kept free of sources of infection and contamination, including vectors by conducting periodic inspections;
 - d. To supervise and provide technical guidance to the concerned agency for disinfection, disinsection and decontamination of baggage, cargo, containers, aircraft or conveyances, facilities, goods and postal parcels and human remains as appropriate;
 - e. To provide technical guidance to the concerned agency for removal and safe disposal of any contaminated water, food, human or animal remains or excreta, waste water and any other contaminated matter from an aircraft and airport premises;
 - f. To provide in place effective contingency plan to deal with public health emergency of international concern and any other infectious disease and shall direct the aircraft or conveyance operator for taking preventive measures;
 - g. To disseminate information to the concerned agencies at the airport regarding the public health emergency of international concern and the measures to deal with it;
 - h. To communicate as quickly as possible, with the National IHR focal point on the relevant surveillance activities, potential public health risk, and public health measures;
 - i. To take all practicable measures to monitor and control the potentially disease causing agents which might contaminate the airport premises;
 - j. To coordinate additional health measures at the airport as decided by the Central Government in the event of public health emergency of international concern; and
 - k. To consider, if there are verifiable indications or evidence that the measures applied on departure from the affected area were unsuccessful, imposition of and additional health measures for travellers, aircraft or cargo, containers, conveyances, goods, postal parcels and human remains arriving from an affected area on arrival.

3. Incoming Aircraft

Any incoming aircraft in India should not be refused free pratique for public health reasons. Any airline, company or an agent on its behalf operating an aircraft engaged in any international flight to India has to provide –

- a. **Prior to arrival**, passenger manifest and information regarding illness or death on board and any health measures applied on board; and

- b. **On arrival**, a duly filled and signed Aircraft General Declaration as per the prescribed form in the Aircraft PH Rules.

An aircraft in transit would remain restricted to a particular area of the airport and no embarkation, disembarkation, loading, unloading and discharge shall be allowed with exception to access to fuel, water, food and medication. Upon confirmation of the airport health officer re the contamination of the baggage, cargo, containers, aircraft or conveyances, facilities, goods and postal parcels they would also be subjected to health measures. The mail, newspapers, books, and other printed matters would not be normally subjected to any sanitary measures with exception to the cargo pertaining to food items and live stocks. The laboratory samples, blood, blood products and life saving medicines would also be exempted from the inspection.

Any aircraft having an infected person, (live or dead), on board would be required to land at an airport other than the airport of destination. They would be inspected after granting free pratique and, if a source of infection or contamination is found on board, airport health officer may cause necessary disinfection, decontamination, disinfection to prevent the spread of the infection or contamination. Such aircraft would be permitted to take on, only under the supervision of the airport health officer, fuel, water, food and medication.

It is noteworthy that any aircraft cleared at one airport in the country shall be deemed to have been cleared for all other airports in the country subject to no untoward health event occurring during the journey. Immediately on arrival and before disembarkations, **the pilot-in-command of the aircraft would have the responsibility to provide the following information to the airport health officer**, namely –

- a. Format of General Declaration as prescribed in the Aircraft PH Rules;
- b. Voluntary health form;
- c. Travellers' destination and telephone numbers and addresses, so that the traveller can be contacted;
- d. Travellers' itinerary to ascertain if there was any travel in or near an affected area or other possible contacts with infection or contamination prior to arrival, as well as review of the travellers' health documents if they are required; and

The aircraft configuration, cargo manifest, passengers' seat number and other such details to facilitate in the medical examination of passengers and crew, if necessary.

If an aircraft lands at an airport other than the airport at which it was scheduled to land on health grounds, the pilot-in-command of the aircraft would have the responsibility to make every effort to communicate with the nearest air port health officer without delay about the emergency landing. The pilot-in-command would not allow any traveller on board to leave its vicinity and no cargo shall be removed from that vicinity, unless required for emergency purposes, authorised by the airport health officer. Only once the health measures required by the airport health officer have been completed, the aircraft shall be allowed to proceed to the airport.

All arriving aircraft shall be required to be disinfected before landing at any airport in India in accordance with the provisions specified in these Aircraft PH Rules and the recommended methods of disinfection for aircrafts laid down by the WHO. The buildings,



places used by travellers shall be required to be equipped with suitable equipment and all the necessary measures shall be taken to maintain the public places free from all kinds of vectors including mosquitoes, rats and such other insects and the occupants or owner of the premises in any area shall be responsible for undertaking appropriate anti vector measures so as keep their premises free from vectors of all types and the airport health officer shall supervise vector status within the airport premises so that it is kept free of all types of vectors for the purpose of these rules. There are specific guidelines to follow to carry dead bodies in aircrafts.

4. Departure

The airport health officer shall persuade the person to avoid travel or, if necessary, prohibit the embarkation on any aircraft if any person showing symptoms of any public health emergency of international concern. Whenever the airport health officer considers it necessary, he may undertake health screening or medical examination of departing travellers, and take other health measures as are required and can also demand a valid vaccination certificate or other documents from the departing travellers.

A person in transit on an international flight, who is under surveillance, may be allowed to continue his journey in which case the airport health officer shall record this fact in the Aircraft General Declaration in the prescribed form. Before the aircraft departs, the airport health officer has to ensure the application of health measures to the travellers, baggage, cargo, containers, aircraft or conveyances, facilities, goods and postal parcels appropriate for the public health emergency of international concern. The aforesaid provisions shall apply to all aircrafts leaving India on an international flight.

5. Food hygiene requirements

All food outlets within the airport or flight kitchens has to be licensed by the airport health officer or such other appropriate authority in accordance with the provisions contained in the Food Safety and Standards Act, 2006. Drinking water and food provided at the airport or on the aircraft must be maintained in hygienic condition. Service provider has to ensure mandatory microbiological testing of drinking water quality at the source and submit regular reports to the airport health officer. Airport health officer has the responsibility to verify such reports to ensure the safety of water.

Food suppliers from outside airport premises would be required to submit a copy of Food Safety License in respect of the outlet from the concerned designated officer of the outlet to the airport health officer. Airport health officer may; however, supervise the ready-to-eat food items served or supplied to the aircraft or airports or outlets in the premises of the airport. All the food delivery personnel shall undergo periodic medical check-up. The airport health officer has the responsibility to supervise the sanitary and food hygiene of not only all the food establishments including flight kitchens at the airport premises but also of the food served within aircraft. The airport health officer can discard the food to which is found unhygienic, adulterated and unsafe for human consumption and thereupon shall order for closure of any such food establishment and drinking water source.

6. Service Charges and Fixation of tariff

No charges shall be levied on passengers for accommodation, transportation, and treatment during quarantine or isolation period provided that the traveller shall pay charges for food and personal requirements utilized by him. The airport health officer shall also not levy charges for –

- a. Any medical examination or investigations which may be required to ascertain the state of health of a traveller within the available means at his disposal; and
- b. Any vaccination, if required, to be given to a traveller on arrival and issuance of vaccination certificate at the time of departure.

The airport health officer shall, on request, issue free of charge –

- a. To any traveller a certificate specifying the date of his arrival or departure and the measures applied to him and his baggage;
- b. To the consignor, the consignee and the operator a certificate indicating the measures applied to the cargo.

Where charges are levied for applying any health measures to travellers under the Aircraft PH Rules, there shall be uniform tariff for such charges and every charge shall –

- a. Not exceed the actual cost of the service rendered; and
- b. Be levied without distinction as to the nationality, domicile or residence of the traveller concerned.

If any traveller refuses or fails to pay any charges due from him, then without prejudice to any proceedings that may be taken against him, such charges shall be recoverable from the owner of the aircraft on which such person or member of the crew arrives. The Central government shall fix the charges for applying public health measures under these rules, which shall be notified in the official Gazette at least ten days in advance.

7. Ethical Issues

Treatment of travellers is supposed to be done with dignity, human rights and fundamental freedoms and by minimising any discomfort or distress associated with such measures. All travellers are to be treated with courtesy and respect. The treatment should take into consideration the gender, socio--cultural, ethnic or religious concerns of travellers. It would be crucial to provide or arrange for adequate food and water, appropriate accommodation and clothing, protection for baggage and other possessions, appropriate medical treatment, means of necessary communication, if possible, in a language that they can understand and other appropriate assistance for travellers who are quarantined, isolated or subject to medical examinations or other procedures for public health purposes.



8. Offences and penalties

All passengers, air carriers and agencies at the airport shall comply with the directions given and all measures lawfully imposed by the airport health officer in pursuance of these rules and shall extend the airport health officer co-operation for the discharge of responsibilities vested under the Aircraft PH Rules.

Any person who –

- a. Obstructs or impedes, or assists in obstructing or impeding any authorized officer in execution of his duties;
- b. Disobeys any lawful order issued by any authorised officer;
- c. Refuses to furnish any information required under these rules;
- d. Furnishes false information, commits an offence under the Aircraft PH Rules.

Whoever contravenes any provision of the Aircraft PH Rules, or disobeys, or fails to comply with, any order given in pursuance of the Aircraft PH Rules, shall be punishable with **imprisonment for a term not exceeding six months or with fine which may extend to ten thousand rupees or with both.**

It is crucial to understand the health risks associated with aviation and the ways to mitigate them. From legal perspective, the Aircraft PH Rules provides for certain crucial health related compliance measures that airlines and pilots have to follow, which if they fail can lead to penalties for them. It would be crucial for all airlines to assimilate the aforesaid practices and compliance measures in their existing system, if not already done so that there can be hassle free rides within and outside India.

II. LATEST NOTIFICATIONS/CIRCULARS

- 1. Press Note No.12 (2015 Series), dated 24th November, 2015, the Department of Industrial Policy and Protection (FC-I Section)** under the Ministry of Commerce and Industry, Government of India has amended the Foreign Direct Investment Policy 2015 (applicable since 12th May, 2015), where the Foreign Investment cap for Defence Industry (subject to Industrial Licence under the Industries (Development & Regulation) Act, 1951) has been changed from 49% under Government Route to 49% under Automatic Route.

Accordingly, FDI in Defence Sector is allowed up to 49% under automatic route and above 49% under the government route on a case to case basis, wherever it is likely to result in access to modern and 'state of art' technology in the country.

This Press Note also clarified position relating to FDI in Civil Aviation in India. As per amendment of Para 6.2.9.3 of FDI Policy, 2015 in case of air transport services, for scheduled air transport service/domestic scheduled passenger airline, foreign investment is allowed up to 49% FDI or that of 100% for NRI under automatic route. In case of non-scheduled air transport service, 100% foreign investment is allowed under automatic route. Also, in case of helicopter services/seaplane services, requiring DGCA approval, 100% foreign investment is allowed under automatic route. Whereas as per amendment of Para 6.2.9.4 of FDI Policy, 2015 in case of ground handling services, there has been major change to have foreign investment of 100% subject to sectoral regulations and security clearance under the automatic route. Also, for maintenance and repair organisations, flying training institutes and technical training institutions, the foreign investment is now up to 100% under the automatic route.

- 2. Indian Technical Standard Order (ITSO-C30c) dated 17th November, 2015** issued by Aircraft Engineering Directorate, Directorate General of Civil Aviation, Government of India regarding requirement for ITSO authorization for position lights. There has been change in SAE Standard AS8037C regarding the colours of the position lights compliant to 14 CFR Part 23, 25 27, 29 and having chromaticity coordinates as per (CIE 1931, 2 degrees observer) International Commission on Illumination. Position lights to be compliant to alternate colour definitions as per SAE standard AS8037C or else require an Equivalent Level of Safety as demonstrated by the applicant. In addition to these requirements, materials so used should be self-extinguishing type in accordance with Appendix F of 14 CFR Part 25. Another requirement pertains to functionality of these position lights to enable a pilot to locate another aircraft as well as to help detection of direction of flight during flight operations and further that any failure to comply with said requirement is minor failure condition and the lights must comply with the same.

Other requirement pertains to Environmental Qualification (as per Section 4.2 of SAE standard AS8037C, using RTCA DO-160G, Standard Environmental Conditions and Test Procedures, issued on 8th December, 2010), Software Qualification (in case of any software with said article then as per RTCA, Inc. document RTCA DO-178C, Software Considerations in Airborne Systems and Equipment Certification, issued on 13th December, 2011) and that of Electronic Hardware Qualification (if such article includes complex custom airborne electronic hardware, then it should be according to RTCA, Inc. Document RTCA DO-254, Design Assurance Guidance for Airborne Electronic Hardware, issued on 19th April, 2000). The major components shall be permanently and legibly marked with all the information given in CAR 21.609(e) and CAR 21.807(a)&(b), Type I, II or III (ref. SAE Standard AS8037C) and that of Nominal power input rating of light assembly. This note also describes the requirement for application data to be submitted to DGCA (AED), as a Statement of Compliance (Form CA-35 of CAR-21) along with documents required under CAR 21.605 and one copy of technical data in support of design and production capability.

- 3. CIVIL AVIATION REQUIREMENTS SECTION 2 – AIRWORTHINESS SERIES 'I' PART II Issue II, 7th October, 2015, File no. 11-690/ I Pt II /2015/AI(2)** issued by DGCA, Government of India regarding Airworthiness Requirements for instruments and equipments including communication and navigation equipment which are to be installed on aircraft engaged in Flying Club and Aerial Work Operations and Gliders. This CAR has been issued under the provision of Rule 133A of the Aircraft Rules, 1937 pursuant to Rule 57 of Aircraft Rules, 1937 that mandates every aircraft to be fitted and equipped with proper required equipments. Furthermore CAR, Section 8, Series 'O' also provides the minimum instrument and equipment including communication and navigation equipment, which is required to be installed on aircraft depending on their operation. Apart from other specific requirements for equipments and communication to be fulfilled by Flying Training Organization and Aerial Work Operation as per the said notification, there are following general requirements to be fulfilled as per the said CAR –
- a. In addition to the minimum equipment necessary for the issuance of a certificate of airworthiness, the instruments, equipment and flight documents prescribed in the following paragraphs shall be installed or carried, as appropriate, in aircraft according to the aircraft used and to the circumstances under which the flight is to be conducted.
 - b. All instruments and equipment and their installation shall be of approved type.
 - c. All instrument dials shall have the operating range marked as specified by the manufacturer of the aircraft.
 - d. Instruments/equipment fitted shall be kept in serviceable condition and that they should be so at the time of take off unless their un-serviceability for any particular flight condition has been permitted by Director General of Civil Aviation.
 - e. When a flight is conducted with unserviceable instruments/ equipment in accordance with para 4 the affected equipment/ instrument shall be placarded as "unserviceable" and additionally rendered ineffective or removed from aircraft so as not to interfere with other serviceable systems. The pilot in charge of the aircraft must also be informed of the same by the maintenance personnel responsible for releasing the aircraft.
 - f. The radio equipment shall be installed and operated with a license issued under the Indian Telegraph Act of 1885 and the rules made there under as amended from time to time and in a manner approved by DGCA.

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