

CIVIL AVIATION GOVERNANCE IN INDIA, AIRCRAFT ACT 1934 & AIRCRAFT RULES, 1937

Dr Moses George

Describes the legal frame work
governing civil aviation in India

Scheme

- Background
- Organisational structure
- Early developments
- National Laws
- Subsidiary regulations, notification

Air Law

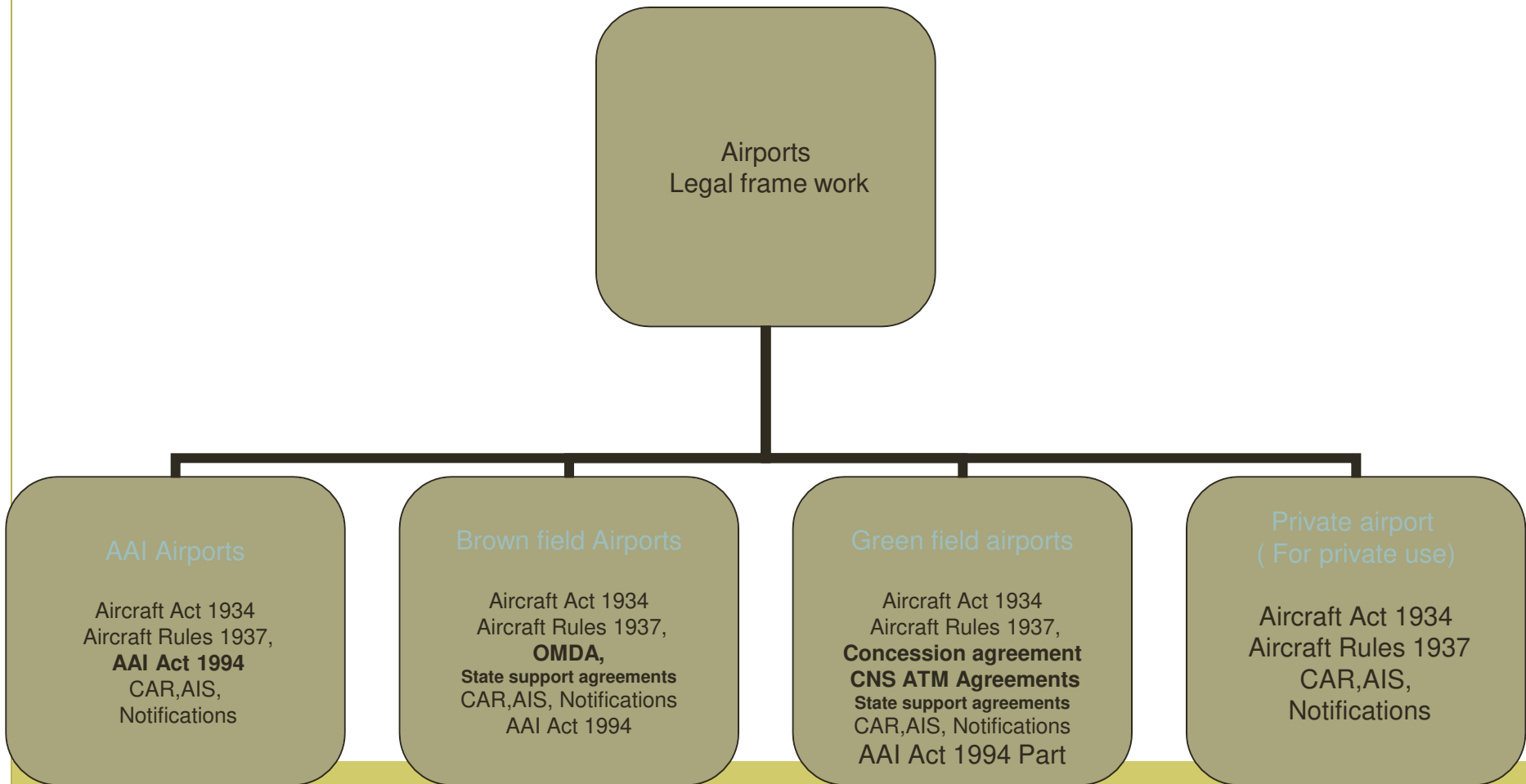
- International law in practicable terms
- International importance in modern times compared to law of sea
- Interdependency
- Compatibility
- ICAO Annexure
- Absence of force/sanction

System Components



- **Main Components of Aviation**
 - Aircraft
 - Passenger
 - Airport
- **Sub units**
 - Airlines – Aircrafts, Fuel, Cargo, Maintenance ,
 - Airport - ATS(ATC +CNS),Meteorology
 - Security
 - Customs – Immigration
 - Passengers – Safety, Economics

Legal frame work



Regulatory Agencies

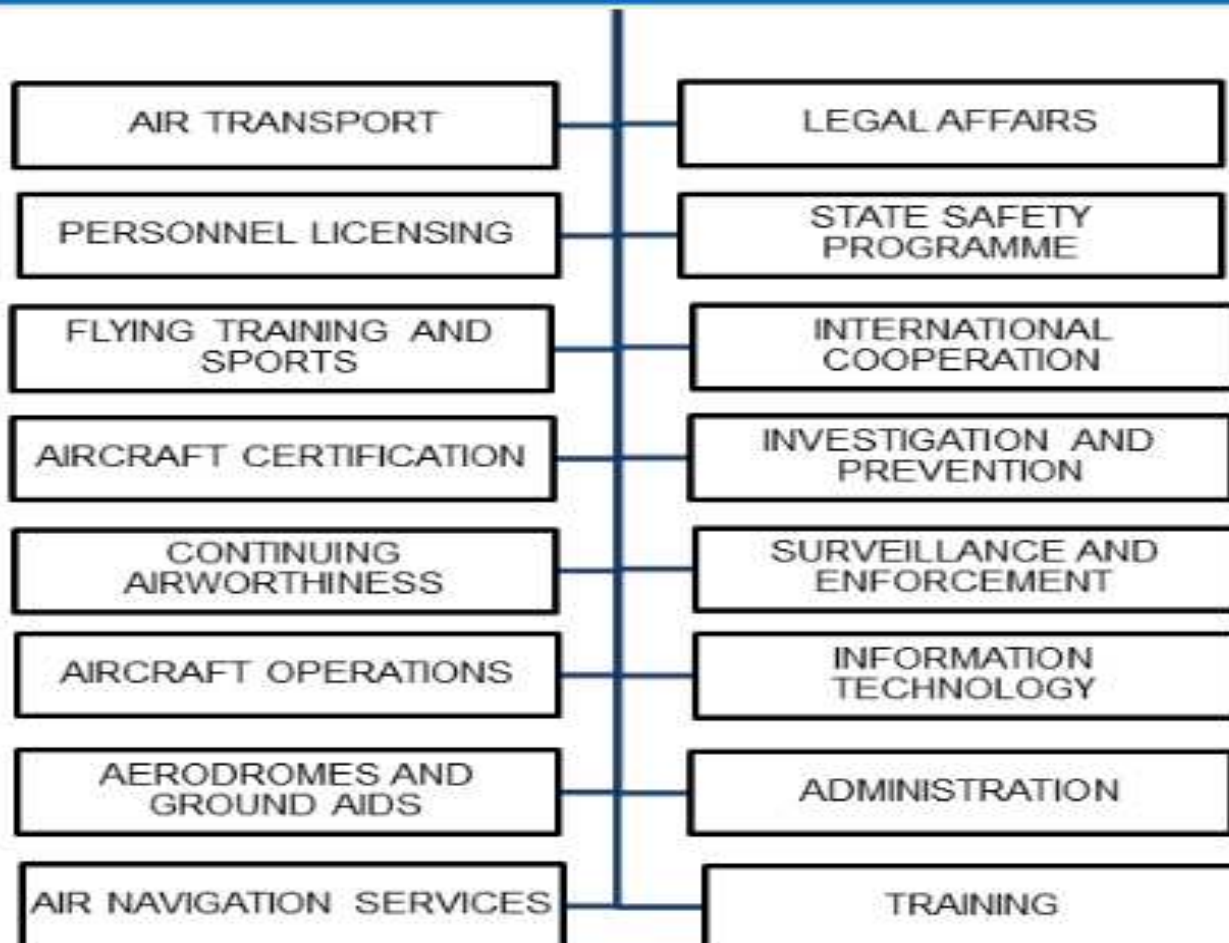


- Civil Aviation Ministry – Policy , laws, Economic Regulations, Bilateral Agreements,
- DGCA- Safety – Aircrafts- Airworthiness ,Air safety, Airports, Licensing, Design, accidents investigations, Environment, Airlines permits, Schedule approval, NSOP operations permission, Environment, Enforcement
- AAI - Safety – ATS -Airport operations
 - Satellite based Navigation
 - NoC for buildings
- AERA – Economic Regulations- Airports
- BCAS- Security-Airlines, Airports, Passengers
- AAIB-Aircraft Accident Investigation Bureau

DGCA



DIRECTORATE GENERAL OF CIVIL AVIATION



BCAS

- Responsible for Aviation security
- Acts through airport operator also(eg-AAI/ BIAL, HIAL)
- Clearance of BCAS is a mandatory requirement for all type of operations, activities ,eg GHA, Airline operation

Aircraft operations

- Type of operations

- - Private
 - Air transport Services
 - - Scheduled
 - - Non Scheduled
-
-
-
-
-

Aircraft operation

- Aircraft import/ lease , registration, Airworthiness
- Clearance from DGCA for the operation
- Valid licenses
- Approval of BCAS

- Approval of flight plan, briefing
- Fueling
- Catering
- ATC clearances
- Engineering clearances
- Security clearance
- ATC control from door closure till landing.
- Disembarking

- Parking, housing of Aircraft
- Clearance of all dues

Origin of Civil aviation in India

- First commercial flight in India 18th Feb 1911
- First Air law in India – Indian Airships Act 1911
- First Air Rules – The Indian Aircraft Rules 1920- to regulate aerial navigation on Indian territory

Early developments

- 1919 International convention for Aerial Navigation at Paris– 27 countries
- Revision of the Indian Aircraft Rules 1920.
- Amendment of 1911 Act
- **Indian** Aircraft Act 1934
 - to enlarge the rule making powers of the Governor General
 - to give full effect of the provisions of the convention

Legal Frame Work



- Constitution of India
- The Aircraft Act 1934
- The Aircraft Rules 1937,
- Airports Authority of India Act 1994
- Airport Economic Regulatory Authority Act 2009 – AERA Act
- Civil Aviation Requirements- CAR
- AIC, AIS
- Bilateral Agreements

Legal Frame work

- The Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994
- Aircraft (Security) Rules 2011
- Aircraft (Investigation of Accidents and Incidents) Rules, 2017
- Concession Agreements – Private airports

Other National Legislation

- The Air Corporations Act, 1953 (27 of 1953)
- The Air Corporations (Transfer of Undertakings and Repeal) Act, 1994 (13 of 1994)
- The Carriage by Air Act, 1972 (69 of 1972) Amended in 2009
- Warsaw convention 1929, Hague protocol 1955, Montreal Convention 1999
- The Tokyo Convention Act, 1975 (20 of 1975)
- The Anti-Hijacking Act, 1982 (65 of 1982)
- The Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982 (66 of 1982)
- Notification regarding application of the Carriage by Air Act, 1972, to carriage by air which is not international
- The Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994
- The Aircraft (Carriage of Dangerous Goods) Rules, 2003

Constitution of India

- Article 246-
 - Union list
 - State list
 - Concurrent list
- Schedule VII- item 29,30
 - Airports, Airways

Aircraft Act 1934

- **Act XXII OF 1934**
- **Assent of the Governor General on 19-8-1934**
- Amended from time to time – One of the amendment on 5th December 2007 (Act 44 of 2007)
- Major amendment in 1972- Power to DGCA to Issue directions
- *Changed name – The word 'Indian' omitted on 26.11.1960 (Act 44 of 1960)*

Preamble

- **The objective –**

To make better provision for the control of the manufacture, possession, use, operation, sale, import and export of Aircraft.

Scope and extent

Territorial- whole of India

- to citizens of India
- to the persons on, aircraft registered in India
- Foreign A/c while in India
- A/c operated by an Indian firm
- Not applicable to military aircrafts

Definitions

- *Means and includes*
 - Eg Aircraft- balloons, kites, gliders and flying machines but exclude Hovercraft.*
- Aerodrome
- Aerodrome reference point
- Import, Export

Power of CG to make Rules

- Dynamic-Technical character of the subject – Aviation
- Subordinate or delegated legislation
- Section 4- Rules to implement the convention 1944- including annex thereto relating to SARPS
- Section 5- to make rule regarding use, operation etc of A/c , licensing, aerodrome, air routes, registration, tariff w.r.t AAI aerodromes etc

Power of CG to make Rules

- Section 7 – to make Rules for investigation of Accidents and incidents
- Section 8A – to make rules protecting Public health
- Section 8C- to make rules securing safe custody and redelivery of unclaimed property

Section 14A

- Rule Subject to
 - Section 14 - publication
 - Section 14A - Laying before parliament
- Every rule —laid as soon as before the Parliament
- Modification or annulment

Power of CG to make orders

- Section 6- in emergency
 - Cancel suspend, licenses
 - Prohibit flights of A/c
 - aerodrome
 - aerodrome , facilities, A/c at the GoI disposal
- Section 8 – Power to detain A/c
 - ✦ Danger to persons in A/c etc
- Section 8B - Emergency powers for protecting public health temporary rules for Epidemic control- 3 months

Other Powers of Central Govt

- Section 9A

- prohibit /regulate construction of buildings planting of trees etc
- Ban on building
- Height restriction
- Radius - w.r.t Nature of A/c from an aerodrome, SARPS

- Section 9B- payment of compensation, arbitrator

- Section 9C- Appeals w.r.t compensation- To the High court- thirty days

- Section 9D- Arbitrator- powers of Civil court

Penalties

- Section 10
 - contravention of rule made under
- Section 11
 - for flying which cause danger
- Section 11A
 - Not complying with the direction
U/S 5A
- Section 11B
 - Not complying with the directions
U/S 9A

Section 10

- **Penalties**
- up to two years + fine of Rs. Ten lakhs - carriage of arms /explosives or other dangerous goods
- up to three years +fine Rs.Ten lakhs- slaughter of animals
- Up to two years+ fine Up to Ten lakhs- rule under section 5,7,4,8,8A,8B

Power of DGCA

- Section 4A
- By 2007 Amendment
- Power to DGCA- safety oversight functions
- Section 5A- power to Issue directions
 - safety of operations
 - security of India

AIC

Sl. No. 14/2008

16th December 2008

DGCA No.9/38/77-IR Vol.II

In exercise of the powers conferred by Section 5A of the Aircraft Act, 1934 (22 of 1934), the Director General of Civil Aviation, being satisfied that in the interest of the security of India it is necessary so to do, hereby directs that no person shall fly or assist in flying an aircraft upto the height of 10,000 ft. over the area included within a radius of 10 kms. from Kalpakkam nuclear installation bounded by the following co-ordinates:- 12° 33' 55" N 80° 10' 33" E

(Nasim Zaidi)

Director General of Civil Aviation

The Aircraft Rule 1937

Salient features

Aircraft Rule 1937

- Power to Make Rules
- U/s 5 and 7, S/s (2) of section 8 of the Aircraft Act, 1934
- U/s 4 of the Indian Telegraph Act, 1885 (XIII of 1885),
- Indian Aircraft Rules, 1920, with the exception of Part IX thereof

Aircraft Rules 1937

<i>PART I</i>	<u>Preliminary</u> (1 - 3B)
<i>PART II</i>	<u>General Conditions of Flying</u> (4 - 20)
<i>PART III</i>	<u>General Safety Conditions</u> (21 - 29C)
<i>PART IV</i>	<u>Registration and Marking of Aircraft</u> (30 - 37A)
<i>PART V</i>	<u>Personnel of Aircraft</u> (38 - 48)
<i>PART VI</i>	<u>Airworthiness</u> (49 - 62)
<i>PART VII</i>	<u>Radio Telegraph Apparatus</u> (63 - 64)
<i>PART VIII</i>	<u>Aeronautical Beacons, Ground Lights</u> (65 - 66)

Aircraft Rules 1937

PART IX	<u>Log Books</u> (67 - 67B)
PART X	<u>Investigation of Accidents</u> (68 - 77A)
PART X-A	<u>Investigation of Incidents</u> (77B - 77D)
PART XI	<u>Aerodromes</u> (78 - 92)
<u>PART XII</u>	Rule 93 to 133 have been deleted
PART XII-A	<u>Regulatory Provisions</u> (133A)
PART XII-B	<u>Engineering, Inspection and Normal Requirements</u> <u>for Organisations other than Operation</u> (133B - 133C)
PART XIII	<u>Air Transport Services</u> (134 - 153)
PART XIII-A	<u>Engineering, Inspection and Manual Requirements -</u> <u>Owners or Operators</u> (154 - 155A)
PART XIV	<u>General</u> (156 - 161)

The Aircraft Rules 1937

- Part I

Title

- Nationality of aircraft
- Definitions
- Delegation of Powers or duty
- Appeals

Part II

4. Use and operation of aircraft
5. Registration and nationality and registration marks
- 5A. Prohibited flight
6. Licensing of personnel
- 6A. Type of aircraft to be included in rating UPDATED
- 6B. Flights to qualify for extension of a licence
- 6C. Flights for testing and other non-revenue specific special purposes.
7. Documents to be carried in aircraft
- 7A. Prohibition of carriage of persons without passport
- 7B. Carriage of cock-pit check list in aircraft
- 8A. Security check of Persons boarding aircraft at Aerodrome (1979)
9. Radio-telegraph apparatus
10. Mails
11. Aerodromes
12. Prohibited areas
13. Photographs at aerodromes or from aircraft in flight (terminal buildings exempted)
14. Aerial work and public transport reserved for certain aircraft
15. Conditions to be complied with by aircraft in flight (airworthiness, instruments)
16. Rules of the Air
17. Production of licences, etc
18. Prevention of flights in contravention of the rules
19. Cancellation, suspension or endorsement of licence and certificates
20. Applicability of certain rules to gliders and kites

PART III - GENERAL SAFETY CONDITIONS

- 21. Dangerous flying
- 22. Deleted
- 23. Deleted
- 24. Prohibition of intoxicated persons entering aircraft
- 24A. Carriage of persons suffering from mental disorders or epilepsy in aircraft
- 24B. Carriage of prisoners in aircraft
- 24C. Carriage of animals, birds and reptiles in aircraft
- 25. Smoking in aircraft
- 25A. Fuelling of aircraft
- 25B. Housing of aircraft
- 26. Dropping of articles and desents by parachutes
- 27. Carriage of persons in unauthorized part of aircraft
- 28. Minimum age for sole control of aircraft
- 28A. Maximum age limit for professional pilots **amended by GSR 660(E) dated 5.9.2008**
- 29. Acts likely to imperil safety of aircraft
- 29A. Prohibition of operating civil aircraft causing sonic boom
- 29B. Prohibition on the use of portable electronic devices
- 29C. Adoption of the Convention and Annexes

PART IV - REGISTRATION AND MARKING OF AIRCRAFT

- 30. Certificate of registration
- 31. Nature of application
- 32. Aircraft imported by air
- 33. Change in ownership
- 34. Aircraft destroyed or withdrawn from use
- 35. Registration fees
- 36. Register of aircraft
- 37. Nationality and Registration marks, how to be affixed
- 37A. Use of State marks

PART V - PERSONNEL OF AIRCRAFT

- 38. Licensing authority
- 38A. Carriage of operating crew
- 38B. Carriage of a cabin crew
- 39. Deleted
- 39A. Disqualification from holding or obtaining a licence
- 39B. Medical standards
- 39C. Period of validity of medical fitness and Licences
- 40. Signature of Licence holder
- 41. Proof of competency
- 41A. Checks, test and examinations
- 42. Licences and their renewal
- 42A. Pilot not to fly for more than 125 hours during any period of 30 consecutive days
- 43. Deleted
- 44. Aircraft not registered in India
- 45. Validation of foreign licences
- 46. Deleted
- 47. Minimum age for holding a licence
- 47A. Minimum educational qualification for holding a licence
- 48. Fees and other charges

PART VI – AIRWORTHINESS

49. Type certificate for an aircraft, aircraft component and items of equipment, designed or manufactured in India and issue of type Certificate

49A. Issue of Type certificate to an aircraft, aircraft component and items of equipment imported in India

49B. Validation of type certificate for aircraft, aircraft components and items of equipment imported in India

49C. Type certificate aircraft categories

49D. Cancellation, suspension or endorsement on Type certificate

50. Certificate of airworthiness

50A. Conditions necessary for certificate of airworthiness and inspection, overhaul of aircraft

PART VI – AIRWORTHINESS

- 51. Flight Manual
- 52. Modification and repairs
- 53. Use of materials, processes, parts and periodical overhaul of aircraft
- 53A. Manufacture, storage and distribution of all aircraft
- 54. Persons authorised to certify
- 55. Suspension or cancellation of certificate of airworthiness and its continued validity
- 56. Indian aircraft operating outside India
- 57. Instruments and equipment
- 58. Weight and balance
- 59. Defects and defective parts
- 59A. Defects in a foreign aircraft
- 60. Maintenance standards and certification
- 61. Licensing of aircraft maintenance engineers
- 61A. Validation of licences of foreign Aircraft Maintenance Engineers
- 62. Fees

PART XI – AERODROMES

- 78. Licensing of Aerodromes
- 79. Qualifications of licensee
- 80. Procedure for grant of licence
- 81. Aerodrome Manual
- 82. Inspection
- 83. Conditions governing the grant of licence
- 84. Period of validity of licence
- 85. Public aerodromes
- 86. Tariff charges
- 87. Fees
- 88. Passenger Service Fees
- 89. User Development Fees
- 90. Entry into public aerodromes
- 91. Prohibition of slaughtering and flaying of animals, depositing of rubbish and other polluted or obnoxious matter in the vicinity of aerodrome
- 92. Ground Handling Services

Delegation of Powers And Appeals

Rule 3A

- Powers of CG by the rules can be exercised or discharged by CG or any other person authorized by it in that behalf- eg- DGCA, AAI
- Power conferred on DGCA can be discharged by DGCA or another person authorised by the central Govt.
- Power conferred by rule 19 or part V or VI on the CG by an authority outside India may be exercised by CG or as in case of sub rule (I) .

Rule 3B- Appeals against

- to the next higher officer within sixty days of date of the order.

CAR

Civil Aviation Requirements

CIVIL AVIATION REQUIREMENTS

- **CAR- Comprehensive technical rules and requirements**
- **Issued by DGCA from time to Time**
- **CAR describes the procedure for issue and revision of Civil Aviation Requirements and their dissemination to various organizations**

CAR-Legal background

- **Section 4 of the Aircraft Act, 1934** enables the Central Government to make rules to implement the Convention relating to International Civil Aviation signed at Chicago on the 7th day of December, 1944 including any Annex thereto relating to International standards and recommended practices as amended from time to time.
- **Section 5 of the Aircraft Act 1934** empowers the Central Government to make rules regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft and for securing the safety of operation.
- **Rule 29C of the Aircraft Rules 1937** enables DGCA to lay down standards and procedures not inconsistent with the Aircraft Act, 1934 and the rules made thereunder to carry out the Convention and any Annex thereto referred to above.
- In accordance with **rule 133 A of the Aircraft Rules, 1937**, the Director General may issue, inter alia, Civil Aviation Requirements not inconsistent with the Aircraft Act, 1934 and the rules made thereunder.

Purpose of CAR

- Broad principles of law in Aircraft Rules, 1937,
- CAR specify the detailed procedures so as to
 - a) meet the duties and obligations of India as a Contracting State under the convention
 - b) harmonize the requirements with the rules and regulations of other regulatory authorities such as FAA/EASA etc.
 - c) implement the recommendations of the Court of Inquiry or any other committee constituted by the Central Government/ Director General.

Contents of CAR

The Civil Aviation Requirements (CARs) are promulgated under the following sections:-

- Section 1 - General
- Section 2 - Airworthiness
- Section 3 - Air Transport
- Section 4 - Aerodrome Standards and Air Traffic Services
- Section 5 - Air Safety
- Section 6 - Design standards and Type Certification
- Section 7 - Flight Crew Standards, Training and Licencing
- Section 8 - Aircraft Operations

CAR-Compliance

- CARs shall be complied with by the person or organization to whom such direction is issued, in compliance with Rule 133A (3).
- It is the responsibility of the operator, owner, organization and service provider ensure that the implementation procedures for the requirements are duly reflected in the **related Manuals** required as per the applicable Rules and CAR

Appeals

- Rule 3B of the Aircraft Rules, 1937
- Against an order passed by an officer Appeal can be preferred to the next higher officer within 60 days

AAI Act 1994

Airports Authority of India Act 1994

AAI Act 1994- Background

- Civil aviation department CAD under MoCA
- DGCA
- Financial autonomy, powers, operations requirement, Budgetary issues
- IAA in 1972 - only five airports
- Followed by NAA in 1989
 - all small airports, civil enclaves and ACS

AAI

- AAI Act 1994, Aircraft Act 1934, Aircraft Rules 1937
- Owns and manages all aerodromes in India except private and defense airports
- Total 120 aerodromes
- Power to make directions
- Manages complete India Airspace
- CNS ATM system

AAI Act 1994

- To replace
- - International Airports Authority Act, 1971
- - National Airports Authority Act, 1985;

AAI Act 1994- purpose

- For the better administration and cohesive management of
 - airports and civil enclaves
 - all aeronautical communication stations
- ***And for the purposes of establishing or assisting in the establishment of airports***

AAI Act 1994 – applicability

- It applies to-

- (a) all airports except Aerodromes of armed forces;

- all private airports in so far as it relates to providing air traffic service, to issue directions under Section 37 to them and for the purposes of Chapter VA”.*

- (b) all civil enclaves;

- (c) all aeronautical communication stations; and

- (d) all training stations, establishments and workshops relating to air transport services.

AAI Act- Defenitions

Defines various terms

Eg. Airport

ACS,

Airstrip,

civil enclave,

ATS,

Private airport

Private airport- Definition

private airport' means an airport owned, developed or managed by -

(i) any person or agency other than the Authority or any State Government,

or

(ii) any person or agency jointly with the Authority or any State Government or both where the share of such person or agency as the case may be in the assets of the private airport is more than fifty per cent

FUNCTIONS OF THE AUTHORITY

● Airport infrastructure

- plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves;
- **establish airports, or assist in the establishment of private airports by rendering such technical, financial or other assistance which the Central Government may consider necessary for such purpose”**

● Navigational Aids

- plan, procure, install and maintain navigational aids, communication equipment, beacons and ground aids at the airports

● Air safety

- **provide air safety services and search and rescue**

● Consultancy

- develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to airports, air-navigation services, ground aids and safety services or any facilities thereat

FINANCE, ACCOUNTS AND AUDIT

The Authority may, -with the previous approval of the Central Government, charge fees, or rent-

- a. for the landing, housing or parking of aircraft or for any other service or facility offered in connection with aircraft operations at any airport, heliport or airstrip
- b. for providing air traffic services, ground safety services, aeronautical communications and navigational aids and meteorological services
- c. for the amenities given to the passengers and visitors
- d. for the use and employment by persons of facilities and other services provided by the authority
- e. Airport Development Fee (ADF) for airport development

Immunity

Section 33. No suit, prosecution or other legal proceeding shall lie against the authority or any member or any officer or other employee of the Authority ***for anything which is in good faith done or*** intended to be done in pursuance of this Act

Power to Issue directions

Section 37.

- Power to issue directions similar to section 5A of Aircraft Act 1934
- Similar powers to DGCA and AAI Officials
- Every direction issued under section 37(sub-section (1)) shall be complied with by the person or persons to whom such direction is issued
- If any person willfully fails to comply with any direction issued- punishment - six months or with fine which may extend to five thousand rupees, or with both.

Power of central Govt over AAI

- Section 38.
- GoI can take over the control, management of AAI-
GoI can hand over it to another entity.
- Before taking over Authority shall be given a reasonable opportunity of being heard in the matter
- Maximum time 6 months – at the most 18 months

GoI- control over AAI

- Section 40

AAI is bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Aeronautical Information Circular

- Issued by DGCA from time to time
- Covers various contemporary issues, ground handling, UDF, ADF, aerodrome list,
- DGCA website display the AICs
- Part of AIS

AIC

AERONAUTICAL INFORMATION CIRCULARS

Updated: March 14, 2019

Year	No.	Date	Title
2019	02/2019	18.01.2019	Corrigendum to AIC 14/2018
	03/2019	28.01.2019	Issue of AIC in respect of Aeronautical Tariffs at Vishakhapatnam Airport, for the 1 st Control Period (01.04.2018 To 31.03.2023)
	04/2019	28.01.2019	Determination of Aeronautical Tariffs in respect of Indira Gandhi International Airport, Delhi with respect to Base Airport Charges (X-Ray Baggage Charges) for the Second Control Period (01.04.2014 – 31.03.2019)
	05/2019	31.01.2019	Voluntary Reporting System
	06/2019	11.03.2019	Effective Implementation of Cape Town Convention – Issuance of revised Standard Operating Procedure for Export of Aircraft Superseded by AIC 8 of 2019
	07/2019	13.03.2019	Order - Operation of Boeing 737 Max in Indian airspace
	08/2019	14.03.2019	Effective Implementation of Cape Town Convention – Issuance of revised Standard Operating Procedure for Export of Aircraft
2018	01/2018	23.03.2018	Checklist of current AICs (Updated up to 31st Dec 2017)
	02/2018	13.02.2018	Addendum to AIC No. 27/2017
	03/2018	27.02.2018	Levy and collection of Aeronautical Charges at Chaudhary Charan Singh International Airport, Lucknow for the second control period 01.04.2016-31.03.2021
	04/2018	27.02.2018	Levy and Collection of Aeronautical Charges at Lokpriya Gopinath Bardoloi International Airport, Guwahati for the Second Control Period 01.04.2016-31.03.2021
	05/2018	12.04.2018	Economic Regulation Of Aeronautical Services Provided By Airport Operators/Service Providers Of Cargo Facility, Ground Handling And Supply Of Fuel To The Aircraft-Interim Arrangement To Continue The Levy Of Existing Tariffs Beyond 31.03.2018 For The Second Control Period
	06/2018	27.04.2018	Levy and collection of aeronautical charges at Chennai International Airport for the 2nd Control Period (01.04.2016 to 31.03.2021)
	07/2018	30.07.2018	Tariff determination of Sardar Vallabhai Patel International Airport, Ahmedabad for the 2nd Control Period (01.04.2016 to 31.03.2021)
	08/2018	17.09.2018	Tariff determination of Kempegowda International Airport, Bengaluru for

AIS-AERONAUTICAL INFORMATION SERVICE

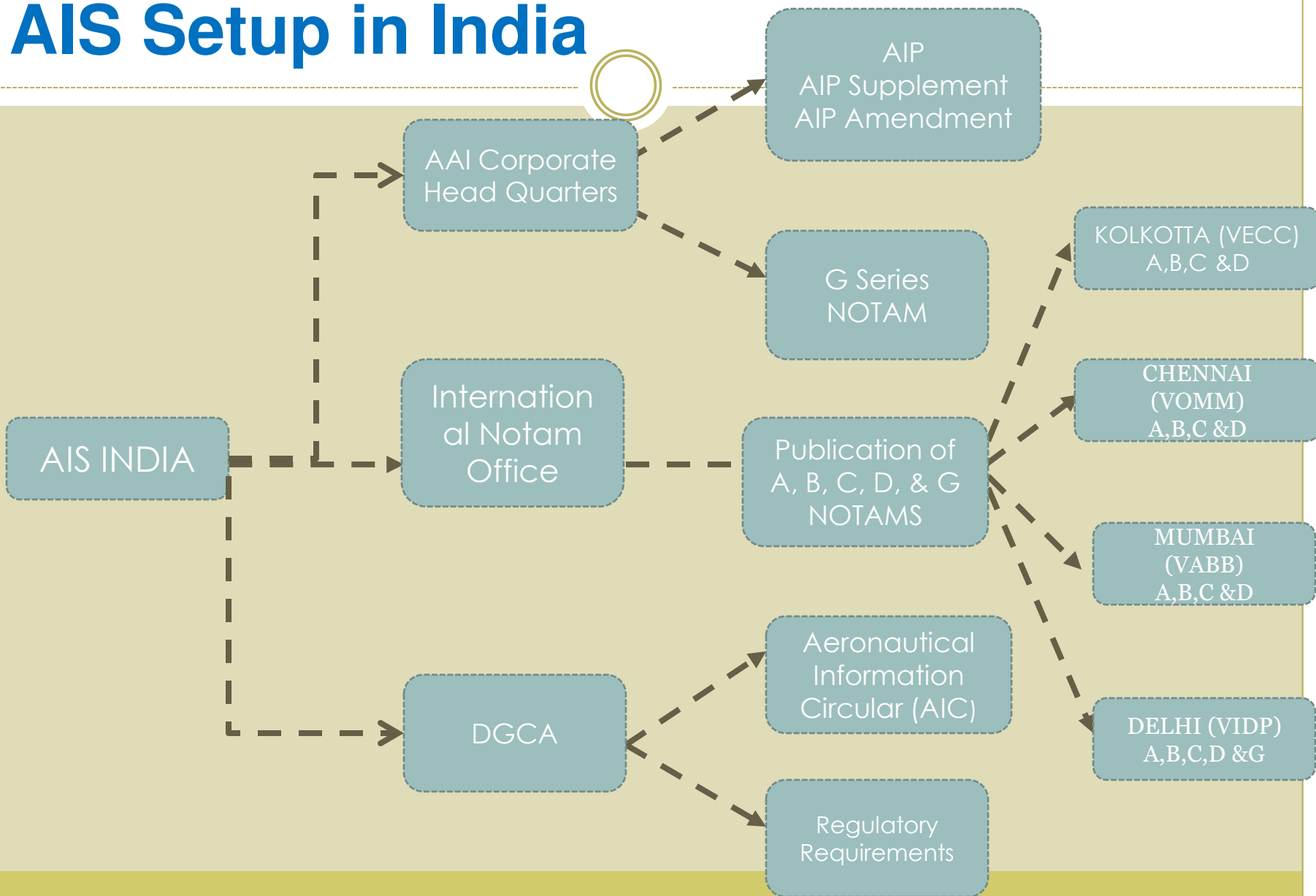


The object of the aeronautical information service is to ensure the flow of information/data necessary for the safety, regularity and efficiency of international air navigation

AIS- Publications/Notifications

- Aeronautical Information Publication (AIP)
- AIP Supplement (AIRAC and non-AIRAC)
- AIP Amendment
- NOTAM
- Aeronautical Information Circular (AIC)
(currently published by DGCA)
- Checklists and Pre-Flight Information Bulletin

AIS Setup in India





AERA Act 2008

**Airport Economic Regulatory Authority Act
2008**

Introduction



- AERA Act 2008 received assent of President on 5th Dec 2008
- Came into effect on 1.1.2009 (except Ch III and IV)
- Chapter III and IV came into effect on 1.9.2009

Background



- In 1997 new Airport Infrastructure Policy was announced.
- This paved way for PPP in Airport Infra Sector.
- Till then AAI was in control of all airports including Civil enclave
- AAI as operator and as well as regulator-
conflict of Interest
- Mismatch –between airport standards and charges by AAI

Economic Regulation of Airports



- **Airports, with a few exceptions, are natural monopolies for O/D traffic**
- **Widespread concern about potential abuses in pricing airport facilities and services**
- **Increasingly sophisticated regulation (UK in lead): price caps tied to inflation rates and/or traffic growth**

Back ground n User Charges



- **Controversial issues, with varying practices around the world; little guidance available; occasional government intervention**
- **Chicago Convention (1944), Article 15, Chapter 2:**
 - Q uniform conditions for aircraft of all Contracting States
 - Q non-discriminatory charges for international air services
 - Q publish charges and communicate them through ICAO
- **Bermuda 2 Agreement (UK/US, 1977):**
 - Q user charges may reflect, but shall not exceed, full costs, including fair return on assets after depreciation
- *ICAO Doc. 9082/4 (1992, 2001) Statements by Council on Charges for Airports and En Route Navigation*
- *ICAO Doc. 7100 (annual) Manual of Airport and Air Navigation Charges*

Regulatory Price Controls at Privatized Airports

- **BAA pricing policies regulated by Monopolies and Mergers Commission through CAA**
- **“RPI - x” formula: annual rate at which an airport can increase its aeronautical charges cannot exceed retail price index (RPI) by more than x%**
- **1999: Heathrow, Gatwick x= 3%; Stansted x= -1%**
- **Intent: improvements in airport financial performance must come from productivity gains, not price increases**
- **Vienna: allowable annual rate of increase in charges depends on rate of traffic growth; the higher traffic growth, the lower the increases allowed**

Statements by the ICAO Council: Airport Charges

General

Majority of international airports operate at loss

Airports operated by autonomous authorities seem to outperform government-operated ones

States should consider the broader economic implications of airports when shaping policies

Council is concerned about...

Economic situation of airports in developing countries

Proliferation of charges on air traffic (some of these charges are for unnecessary services)

Increase in cost of air navigation services

Statements by the ICAO Council: Airport Charges [2]

- **Cost Basis for Airport Charges**
- **Principle: International users must bear their full share (but not more) of the cost of the airport**
- **Airports should maintain full financial records**
- **Full cost includes operating cost of airport and essential services, as well as interest, depreciation, repairs and management**
- **No charges for facilities not used**
- **Airports may produce revenues > costs**
- **A user's ability to pay should not be taken into account until all costs are assessed**

Consultation with Users: Statements by the Council



Consultation should precede any significant changes in charging systems

Airport operators should seek user views and reach agreement

Two-months advance notice of proposed changes

Authorities should have power to implement changes

Airports and users should plan new developments together; share forecasts and information

AERA ACT -Powers

- to regulate tariff and other charges for the aeronautical services rendered at airports
- to monitor performance standards of airports
- to establish Appellate Tribunal to adjudicate disputes and dispose of appeals
- to lay down functions of appellate tribunal
- for Imposing penalties –willful non-Compliance
- for powers of Central Govt to issue directions

Applicability



It applies to –

- all airports other than defense airports
- all private airports and leased airports;
- all civil enclaves;
- all major airports

POWERS AND FUNCTIONS OF AERA



- (a) to determine the tariff for the aeronautical services (note -not that of non aero activities)*
- (b) to determine the amount of the development fees in respect of major airports;*
- (c) to determine the amount of the passengers service fee- Rule 89 of Aircraft Rules 1937*
- (d) to monitor the set performance standards*
- (e) to call for such information as may be necessary to determine the tariff under clause (a);*

Parameters for tariff determination

- Capital expenditure
- Service provided –quality etc
- Cost of improving efficiency
- Economic and viable operation of airport
- Revenue received from services other than aero services
- Concession offered by GoI – any agreement
- Any other factor

Revision of Tariff



- *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*

Transparency



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

(a) by holding due consultations with all stakeholders 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

- Stake holders- airlines, passenger (association), cargo agencies etc*
- Consultation papers*

Power of AERA



Section 14- Power to call for information, conduct investigations

Section 15- To issue, from time to time to the service providers, such directions, as it may consider necessary.

Section 16. Power to seizure any document

APPELLATE TRIBUNAL



Appellate Tribunal - **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

(exempted- MRTP ACT, Competition Act, Consumer protection Act related issues)

- *(b) hear and dispose of appeal against any direction, decision or order of the Authority under this Act*
- *Current decision of the appellate authority – not to implement AERA decision on Aero charges*

Power of civil court



- Section 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.
 - ❖ 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.

Powers of Appellate Tribunal



- Section 31. Appeal only before Supreme Court
 - No appeal if the decision is by the consent of the parties
 - Limitation – 90 days
- Section 32. Orders passed by Appellate Tribunal to be executable as a decree

Offences and penalties



- Section 37- willful failure to comply with orders of the appellate authority - fine one lakh first time – two lakhs in the case of continuing contravention
- Section 38- non-compliance of orders and directions under the Act – fine -one lakh rupees



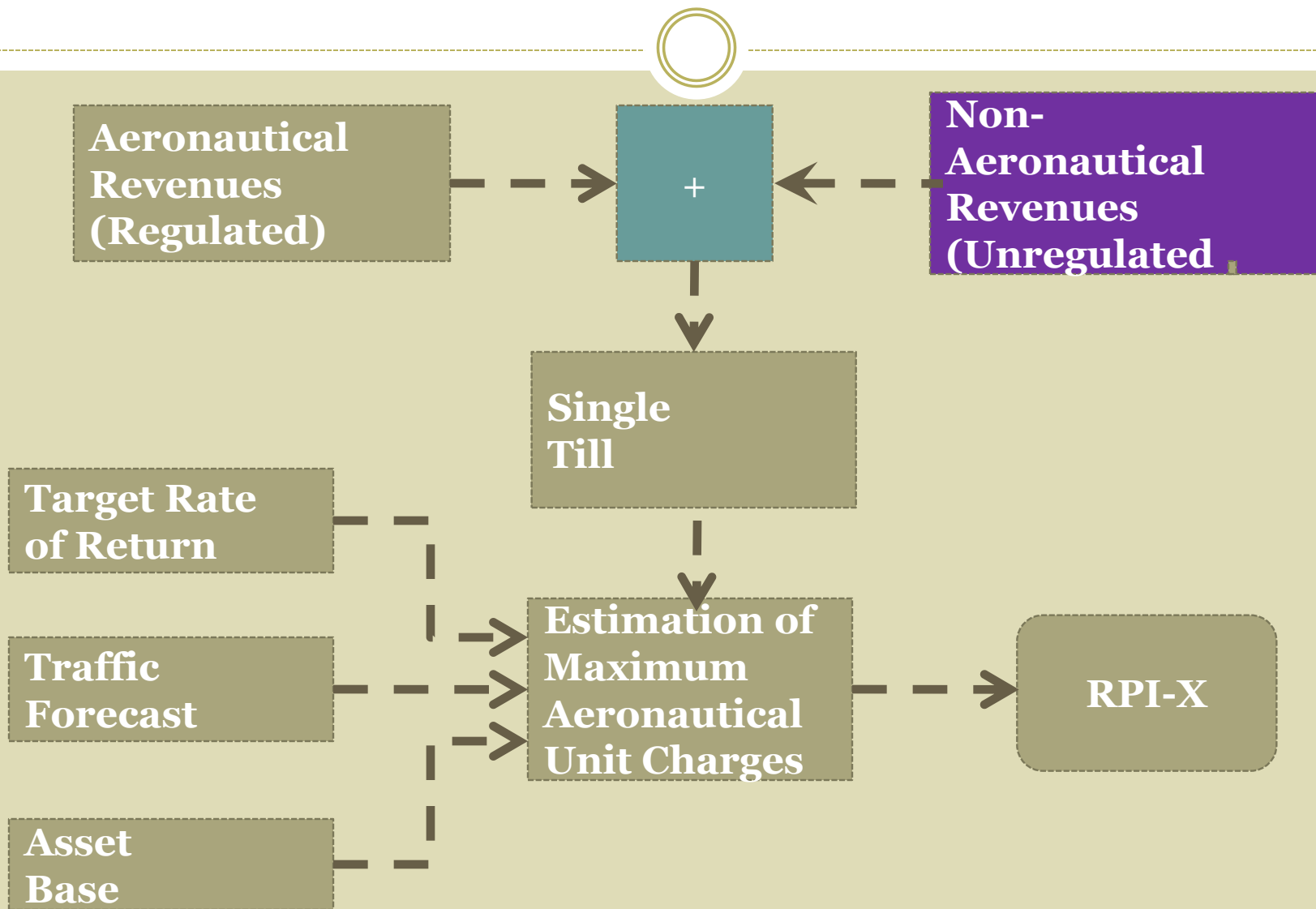
- Section 39 -with order of the Authority or Appellate Tribunal under Ch IV-fine -one lakh rupees
- Section 40- offence by companies-
 - person in charge will be deemed to be guilty
 - if it is proved – with consent of, or attributable to any director, manager , secretary etc

Type of Charges

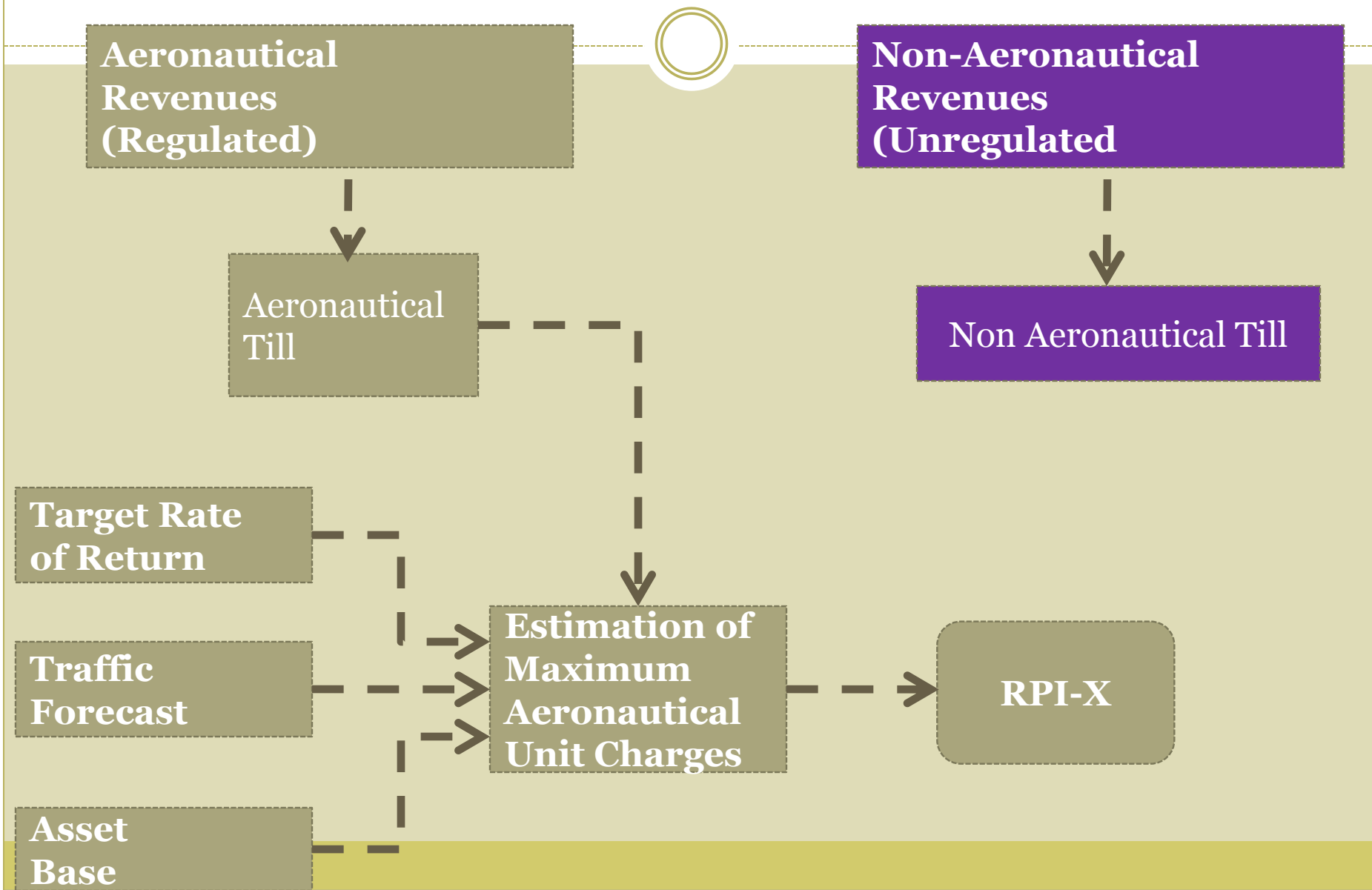


- Airport development Fee (ADF)- AAI Act 22A
- User Dev. Fee – Rule 89- A/C Rules 1937
- Passenger service fee- PSF – Rule 88- A/c rules
- X-ray Charges
- Aerobridge Charges
- Apron access charges
- Fuel throughput Charges
- RNFC/TNLC/Housing / Parking

Single Till Approach



Dual Till Approach



Latest Policy



- Issues
 - AERA work load increased
 - Airlines complaining about higher charges
 - Tariff uncertainty
 - Litigations
- GoI's new initiative -NABH Nirman 2018 (Next Gen Airports for Bharat)
- New transaction structure for privatization of airports .
- Cost Plus model to pre determined charges

Thank you