

LAW OF CIVIL AVIATION IN AFGHANISTAN

20 Assad 1335

CHAPTER ONE: GENERAL AIMS

ARTICLE 1: The Government of Afghanistan, considering:

- a) The country's need of having a law for the regulation and control of civil aviation in the national interest.
- b) The need to create an efficient, relatively autonomous organization for the administration of civil aviation.
- c) The need to discharge this country's obligations under the international agreements and treaties to which Afghanistan is or may become a party, and particularly under the Convention on Civil Aviation opened for signature at Chicago on December 7, 1944

DECREES the following:

CHAPTER TWO: REGULATION AND CONTROL OF CIVIL AVIATION

ARTICLE 2: Afghanistan retains complete and exclusive sovereignty over the airspace above its territory.

ARTICLE 3: An aircraft of Afghanistan, or of a foreign country — member of the I. C. A. O. — is free to fly in Afghanistan provided it complies with the requirements of the Convention on Civil Aviation; any other foreign aircraft must have, in addition, the authorization of the Afghan Air Authority.

ARTICLE 4: An aircraft may exercise a commercial activity as long as it complies with the laws and regulations of the country and provided that prior specific authorization in accordance with the Article 10 has been obtained from the Afghan Air Authority.

ARTICLE 5: Subject to approval from the Government, the Afghan Air Authority may, for reasons of military necessity or public safety, prohibit or restrict uniformly the flight of any aircraft over certain areas of Afghan territory.

ARTICLE 6: An aircraft can obtain Afghan nationality when it is registered in the Civil Aircraft Register. The conditions for registration are as follows:

- a) The aircraft must not be registered in any other country and if previously registered in any other country, the former registration must be cancelled.

b) The aircraft must belong to the Afghan Government or its nationals, foreign residents in Afghanistan, or a company or corporation registered in accordance with the regulations in Afghanistan.

- ARTICLE 7: An aircraft registered in the Aircraft Register may be flown, provided it has a valid Certificate of Airworthiness.
- ARTICLE 8: No person may pilot an aircraft, or participate in operating the aircraft as a member of the crew, or act as a flying instructor, unless he holds the appropriate license.
- ARTICLE 9: The Afghan Air Authority may, in cases of violation of Article 8, revoke or temporarily suspend a permit, or license granted by it, or limit the rights contained therein, irrespective of any penal proceeding.
- ARTICLE 10: Any person, real or legal, desiring to undertake commercial air transportation must obtain an operating certificate from the Afghan Air Authority.
- ARTICLE 11: When any of the conditions necessary for the issue of an operating license no longer exist, or the holder of such certificate fails to comply with any of its provisions, the Afghan Air Authority may revoke or temporarily suspend the operating certificate, or limit the rights granted therein.
- ARTICLE 12: The importation of aircraft, engines, spare parts, all ground equipment, with regard to the objective of encouraging the development of civil aviation will be free from custom and other duties.
- ARTICLE 13: As a legal body, the Afghan Air Authority can buy any kind of stable property in accordance with the Property Act, if it is necessary for the development of civil aviation or the executing of its aims.
- ARTICLE 14: The Government may, upon the proposal of the Afghan Air Authority, prohibit the construction of any building within a specified distance from the limits of an airport or air navigation facility, if the construction of this building would create danger to aircraft in flight.

If such a building or obstacle existed prior to the enforcement of the present Act, the Government may remove or restrict it. Compensation for such damage must be made by the President of the Afghan Air Authority.

The Afghan Air Authority may use any public or private property either land, building or structure, for installation of air-navigation facilities necessary for the safety of flight, and has the right of entry to said land, building or structure for the purpose of installing, operating or maintaining the said facilities. If, as a result of the installation, operation or maintenance of the said facilities, any inconvenience is caused, compensation for such inconvenience must be made by the Afghan Air Authority.

CHAPTER THREE: AFGHAN AIR AUTHORITY.

- ARTICLE 15: There shall be a President of the Afghan Air Authority who shall head the Afghan Air Authority, and who shall have responsibility for the administration of civil aviation in Afghanistan.

The President of the Afghan Air Authority under general control of the Prime Minister or such Minister as may be designated by the Government is authorized to:

- a) Organize air routes so that the country may benefit from the advantages of air transportation, establish such airports as are needed and provide air navigation facilities and ground services necessary for the safe, regular, efficient and economical operation of civil aircraft into and over the territory of Afghanistan.
- b) Foster air services with foreign countries for the purpose of developing and strengthening the economic and cultural relations of Afghanistan with those countries and negotiate appropriate agreements.
- c) Encourage air transport organizations in order to provide for the needs of external and internal air transportation of passengers, cargo and mail.
- d) Foster any other civil aviation activities.
- e) Collect or arrange for the collection of charges for the use of airports, air navigation facilities and ground services in accordance with the established regulations.
- f) Supervise civil aviation activities according to the Law of Civil Aviation and regulations in force.
- g) Establish, collect or arrange for collection of fees in accordance with the regulations, for the licenses, certificates and other documents.
- h) Organize and sponsor training of Afghan nationals in different fields of civil aviation services.
- i) Prepare and administer the annual and investment budgets for civil aviation.
- j) Participate in the International Civil Aviation Organization and attend International Aviation conferences with the approval of the Government.
- k) Issue the regulations concerning different aspects of civil aviation activities and related to:

Flights of Afghan and foreign aircraft in or over Afghanistan

Safety of flights

Air Traffic

Procedures for air navigation

Airports

Health

Customs procedures for aircraft entering or departing Afghanistan

Aircraft documents

Registration of aircraft

Training of aviation personnel

Training institutions

Factories and maintenance

Air Transport

Aircraft in distress

Investigation of accidents

Telecommunications

Suspension or revocation of permits, certificates or licenses

Detention of aircraft, and having regard to the best practices, any

other regulations needed for development of civil aviation and its proper control

CHAPTER FOUR: CIVIL AVIATION COUNCIL

ARTICLE 16: There shall be a Civil Aviation Council which shall be the highest authority to advise the Government in all civil aviation matters, and which shall particularly:

- a) Advise the Government in civil aviation policy matters.
- b) Submit international agreements for ratification.
- c) Advise the Government on civil aviation administration and investment budgets.
- d) Interpret the civil aviation laws and rules, regulations and orders, especially in eventual disputes between the Department of Civil Aviation and other parties.

The Civil Aviation Council shall consist of five members appointed by the Government from Ministries interested in civil aviation and from persons especially qualified by knowledge and experience.

The Chairman and Vice-Chairman of the Council shall be nominated by the Government.

A quorum of three, including either Chairman or Vice-Chairman, shall be needed for lawful decisions.

Decisions shall be taken by a majority of votes. If the votes are equally divided, the Acting Chairman shall have a second vote.

The President, Afghan Air Authority, shall act as the secretary to the Civil Aviation Council.

The Council meetings will be called by the Acting Chairman at least once every three months.

ARTICLE 17: By the judgment of the court the following persons shall be subject to a fine of not less than 1000 Afghanis and of not more than 2000 Afghanis or to imprisonment of not less than two months and not more than six months or to both:

- a) Any person who pilots an aircraft or, as a member of the crew, participates or assists in any way in operating an aircraft, or who acts as a flying instructor without the appropriate license.
- b) Any person who engages in commercial air transportation without an operating certificate.
- c) Any person who pilots an aircraft without a certificate of airworthiness or with one the validity of which has expired.

ARTICLE 18: If the offenses mentioned in Article 17 result in injury or death, the offender may also be subject to the provisions of the criminal laws.

ARTICLE 19: For minor infringements of the law, rules or regulations, the President of the Afghan Air Authority can impose a disciplinary fine not exceeding 1000 Afghanis.