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AVIATION SECTOR

MAY 2022

SECTORAL UPDATES

**JURIS CORP OFFICES: MUMBAI (CORPORATE) • MUMBAI
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TABLE OF CONTENTS

1. Fuel Pricing.....	3
2. Aircraft Leasing & Financing.....	3
3. Logistics	4
4. AOB 2022	4
5. Drones.....	5
6. Civil Aviation Requirements	9

GLOSSARY OF TERMS

Abbreviation	Meaning
AAIB	Aircraft Accidents Investigation Bureau
Act	Aircraft Act, 1934
Amendment Act	Aircraft (Amendment) Act, 2020
AOB 2022	Protection and enforcement of Interests in Aircraft Objects Bill, 2022
ATF	Aviation Turbine Fuel
BCAS	The Bureau of Civil Aviation Security
CAR	Civil Aviation Requirements
DGCA	Directorate General of Civil Aviation
Drone Rules 2021	Drone Rules, 2021
Drone Rules 2022	Drone (Amendment) Rules, 2022
FA21	Finance Act, 2021
IDERA	Irrevocable deregistration and export request authorisation
IFSC	International Financial Services Centre
ITA	Income Tax Act, 1961
MCA	Ministry Of Civil Aviation
MSME	Micro, Small & Medium Enterprises
OM	Operations Manual
PLI	Production-Linked Incentive
QCI	Quality Council of India
RPAS	Remotely Piloted Aircraft System
SC	Hon'ble Supreme Court of India
SMS	Safety Management System
UAS	Unmanned Aircraft Systems
UAS Rules, 2021	Unmanned Aircraft Systems Rules, 2021

1. Fuel Pricing

- **Issue before the SC on whether the ATF filled in the fuel tank of an aircraft is being transported through an aircraft**

In the matter of *Jet Airways Limited v. Commissioner of Customs (I) (Airport)*, decided on 25th May 2021, the SC held that:

- notional cost towards freight charges is not required to be added to the value of ATF left in the aircraft after its international flight into India.
 - there was no transportation of ATF as the present ATF in the tank was essential for the aircraft to fly.
 - only the actual cost paid or payable can be added to the transaction value.
- The Notification No. FT.02/2016/77 dated 4th December 2021 published by Assam Gazette Extraordinary¹ states that **partial exemption will be provided by way of payment of VAT at the rate of one percent (1%) on sale of ATF made to aircraft operating under regional as well as non-regional connectivity scheme.**
 - The department of tax & excise of Arunachal Pradesh issued a notification² dated 10th April 2022 **reducing the VAT applicable on ATF for all services from 20% to 1%.** (Memo No. TAX(VAT)-264/2017).

2. Aircraft Leasing & Financing

- The **Finance Bill with reference to the Section 6 of FA21, amends Section 10(4F) of ITA** to include any income of a non-resident by way of royalty or interest, on account of lease of an aircraft, paid by a unit of an IFSC if the unit has commenced its operations on or before the 31st day of March 2024.

¹ https://comtax.assam.gov.in/sites/default/files/swf_utility_folder/departments/cot_finance_uneecops_cloud_com_oid_18/menu/document/no_578_ft_82-2016-77_dated_04-12-21.pdf [As on 25^h May 2022]

² https://twitter.com/JM_Scindia/status/1513775695498919939/photo/1. [As on 25^h May 2022]

3. Logistics

- The **Amendment Act enforced on 19th September 2020**, provides recognition to three existing regulatory bodies:
 - *DGCA*, 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.
 - *BCAS*, an independent department under the MCA with main responsibilities of laying down standards and measures with respect to security of civil flights at international and domestic airports in India.
 - *AAIB*, responsible for investigation associated with aircraft and related incidents.

Each of them is headed by the Director General who will be appointed by the Central Government. Further, the officers are empowered to levy greater fines up to INR 10 million for violations of the Act.

- The DGCA on 15th June 2020, **introduced a new para 7A in Section 2 - Airworthiness of CAR to record IDERAs**, stating that for recording IDERA with DGCA the IDERA holder or his authorized signatory or certified designee of the authorized signatory shall submit application as under para 7A.

4. AOB 2022

- The **MCA in April 2022, proposed to introduce the AOB 2022**, which aims to help international aircraft leasing companies to repossess and transfer planes out of India in case of a financial dispute with an Indian airline. This has been introduced as per India's obligations under the Cape Town Convention.

5. Drones

- The MoCA on 11th February 2022, issued the Drone Rules 2022³ to amend the Drone Rules 2021⁴ which were promulgated on 25th Aug 2021 to regulate the use and operation of drones or UAS in India. The aim of the Drone Rules 2021 was to create a Digital Sky Platform, which is a business-friendly single-window online system, with minimum human interference, where most of the permissions will be self-generated. The **Key Highlights** of the Drone Rules 2021 (Amended up to 11th February 2022) are:

Provision Topic	Provision
Applicability of Rules	The Rules apply to all drones with maximum all-up-weights of up to 500 kgs which are registered in India or being operated over India.
Categories of UAS	There are five categories: <ul style="list-style-type: none"> • Nano UAS: Less than 250 gms • Micro UAS: Between 250 gms and 2 kgs • Small UAS: Between 2 kgs and 25 kgs • Medium UAS: Between 25 kgs and 150 kgs • Large UAS: Between 150 kgs and 500 kgs
Permission Requirements	<ul style="list-style-type: none"> • Drone manufacturers need to obtain a Type Certificate for a model of drone not certified yet. • Drone operators need to obtain a UIN for each drone through registration with the Type Certificate number obtained.

³ <https://egazette.nic.in/WriteReadData/2022/233331.pdf> [As on 25^h May 2022]

⁴ <https://egazette.nic.in/WriteReadData/2021/229221.pdf> [As on 25^h May 2022]

Provision Topic	Provision
Type Certificate	<ul style="list-style-type: none"> • An application can be filed on the Digital Sky Platform along with payment of fees. • Details of the applicant and the prototype need to be submitted and the prototype needs to be physically handed over for inspection. • A Type Certificate may be issued on the recommendation of the QCI. • Operators of model remotely piloted aircraft and nano UAS do not need to obtain a Type Certificate.
Registration	<ul style="list-style-type: none"> • Drone operators need to register by filling out the relevant form on the Digital Sky Platform. • For drones manufactured in India or imported before 30th November 2021, an application for registration should be made by 31st March 2022.
Remote Pilot License	<ul style="list-style-type: none"> • Any person piloting a drone requires a remote pilot license. • Pilots operating nano UAS or micro UAS for non-commercial purposes are exempt from the Remote Pilot License requirements.
Insurance	<ul style="list-style-type: none"> • All owners of drones except nano drones are required to obtain third-party insurance for the drones before operation. • The rules under Chapter XI of the Motor Vehicles Act 1988 will apply to third-party insurance of drones.
Penalty	<p>The maximum penalty for contravening or failing to comply with the provisions of these rules is INR 1 lakh.</p>

Provision Topic	Provision
Airspace Maps	<ul style="list-style-type: none"> • The Government has published an airspace map on the Digital Sky Platform by 25th September 2021.⁵ • The map will segregate the airspace into red, yellow, and green zones. • Drone operators require prior permission for flying in a red or yellow zone. • No prior permission or flight path registration is needed for flying in green zones. • The map will be made machine-readable through APIs.
Mandatory reporting of an accident	<p>Within 48 hours of an accident involving a UAS, the remote pilot shall report the accident on the Digital Sky Platform.</p>
Mandatory Safety Features	<p>In future, the Government may notify owners of UAS to install safety features which may include NPNT hardware and firmware, Geo-fencing capability, and a real-time tracking beacon. Once notified, operators of drones will have 6 months to comply with the requirements.</p>
Transfer of UAS	<p>When ownership or possession of UAS is being transferred, the relevant form on the Digital Sky Platform should be updated with the details of the new owner/possessor.</p>
Deregistration of UAS	<p>When the UAS is permanently lost or damaged, the owner should apply for deregistration of the aircraft using the relevant form on the Digital Sky Platform.</p>

⁵ <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1757850> [As on 25^h May 2022]

- **PLI SCHEME FOR DRONES:** The Government notified a PLI scheme for Indian drone manufacturers on 30th September 2021⁶. The scheme seeks to promote a competitive and self-sustaining drone manufacturing industry in India under the Atmanirbhar Bharat Abhiyan. Manufacturers of drones as well as drone components are eligible to apply for the scheme. Developers of software for drones are also eligible under the scheme. The scheme covers several products including hardware. The Government has kept the eligibility norm for MSMEs and start-ups in terms of annual sale turnover at a nominal level. MSMEs with an annual turnover of INR 2 crores and drone component manufacturing MSME's with an annual turnover of INR 50 lakhs would be eligible for incentives. The eligibility norm for non-MSME companies in terms of annual sales turnover has been kept at INR 4 crores for drones and INR 1 crore for drone components.
- The eligible companies can get 20% of their value addition as an incentive from the government. The government has projected sales of INR 200 crores from the Indian drone industry in the financial year 2021-22. It is predicted that this amount will grow by 100% in FY 2022-23, to INR 400 crores, and further by 125% in FY 2023-24, to INR 900 crores. Thus, the government expects to pay out a total of INR 120 crores in incentives across 3 financial years. The scheme will serve as significant encouragement for investment in the drone sector and for the creation of new Indian start-ups catering to the industry.
- **MoCA issued notification⁷ no. S.O. 347(E) dated 26th January 2022 regarding Certification Scheme for UAS:** to streamline and speed up the process of certification – an objective of the Drone Rules 2021. The drone certification scheme has been notified under Rule 7 of the Drone Rules 2021, which will help in simpler, faster and transparent type-certification of drones. The single window Digital Sky Platform was also launched in January 2022 to start registration of drones, pilots, and operators for online permission. “Digital Sky Platform” is an online platform hosted by the DGCA for various activities related to the management of unmanned aircraft system activities in India.

⁶ <https://egazette.nic.in/WriteReadData/2021/230076.pdf> [As on 25th May 2022]

⁷ <https://egazette.nic.in/WriteReadData/2022/232917.pdf>

There are four different profiles which a user/operator can opt for:

- Remote Pilot Profile – Registering as an individual as Pilot.
 - Individual Operator Profile – Registering as an Operator of RPAS.
 - Operator Profile – Registering as an Operator for any Organisation.
 - Manufacturer Profile – Registering as Manufacturer.
- Tax incentives will be provided for one more year to start-ups that had already been extended through 2023, in view of the COVID-19 pandemic. Start-ups would be supported to facilitate 'Drone Shakti' through various applications and drone subscription services. When introducing the new concept, it has been stated that **"start-ups will be promoted to facilitate Drone Shakti through varied applications and for a drone as a service"**.

6. Civil Aviation Requirements

- CAR - Section 9 – Series P Part I Issue I (F. No. DGCA 21048/1/2021-ANS) dated 3rd June 2021 in re design validation and promulgation of instrument flight procedure with the aim of bringing all the civil aircraft operations to meet the standards of ICAO for IFP. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150483502>
- CAR - Section 3 - Series M Part I Issue III (F. No. 23-05/2010-AED) dated 9th July 2021 on guidelines for carriage by air of persons with reduced mobility. This lays down allowance of assistive devices free of charge as additional baggage, ensuring these assistive devices are carried on the same aircraft as the passenger. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150529971>
- CAR - Section 4 - Series B Part I (F. No. AV.20024/11/05-AL) dated 19th July 2021 on Aerodrome design and operations. This lays down comprehensive requirements regarding aerodromes infrastructure. These requirements are brought in to fulfil the obligations under Article 28 and 37 of the Convention on International Civil Aviation. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150570993>

- CAR - Section 8 - Series O Part III (F. No. AV 22024/16/2011-FSD) dated 12th August 2021 on Operation of General Aviation Aeroplanes. This is aimed at providing requirements for aircraft operation other than commercial air transport operation. These requirements will be applicable to aircraft operations engaged in general aviation and lays down the minimum operational, equipment and instrument requirements. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150628572>
- CAR - Section 2 - Series I Part V (F. No. DGCA-25012(07)/5/2021-AW) dated 27th August 2021 on Fitment of Data Recorders and other such instruments on Aircrafts in India. This lays down the requirements for fitment of Flight data recorders, Combination Recorders, Datalink Recorders, Airborne Image Recorders and Aircraft Data Recording systems on Aircraft registered in India. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150628662>
- CAR - Section 2 - Series I Part VI Issue III [F. No. DGCA-25012(07/6/2021-AW)] dated 27th August 2021 on Cockpit Voice recorders and Cockpit Audio Recording System. This deals with the requirements for CVRs and CARS on Aircraft registered in India or Aircraft leased and imported into the country. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150629345>
- CAR - Section 2 - Series I Part VII (F No. DGCA 25012(07)/7/2021-AW) dated 27th August 2021 on Ground proximity warning system (GPWS). The issue of this CAR brings out the revised requirements for installation of GPWS keeping in view the amendments to Annex 6 issued by ICAO as well as the Indian experience of CFIT problem. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150629366>
- CAR Section - 8 Series D Part I Issue II (File No. DGCA/22024/12/2020-FSD) dated 2nd August 2021 on Load and trim sheet - requirements thereof & training of concerned personnel. This sets out the requirements for load and trim sheets, necessary training of the personnel engaged in their approval by DGCA. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150633351>

- CAR Section - 6 Series A Part II Issue I dated 14th September 2021 on Requirements for recognition / acceptance of type certificate, restricted type certificate and supplemental type certificate issued by a contracting state for aeronautical product, viz. aircraft, aircraft engine and propeller. This CAR is issued under the proviso of rule 133A of the Aircraft Rules, 1937, and lays down the detailed requirements under which TC/RTC or STC in respect of the aeronautical product issued by a Contracting State is recognized/ accepted by DGCA. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150672297>
- CAR Section - 8 Series O Part II, Issue II (F. No. AV/11012/6/2020-FSD) dated 13th September 2021 on Operation of Commercial Air Transport- Aeroplanes. This lays down the minimum operational, equipment, and instrument requirements for aeroplanes registered in India and engaged in domestic and international air transport operations. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150674242>
- CAR Section - 9 Series I Part I Issue-II (F. No. AV27086/1/2010-ANSS) dated 20th September 2021 on Aeronautical Information Services. This CAR is issued for requirements of aeronautical information services to ensure the flow of information/data necessary for the safety, regularity, and efficiency of air navigation. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150691260>
- CAR Section - 8 Series O Part II, Issue II (F. No. AV. 22024/19/2011-FSD) dated 01st December 2021 on Operation of commercial air transport- Aeroplanes. This lays down minimum operational, equipment, and instrument requirements for aeroplanes registered in India and engaged in domestic and international air transport operations. These are applicable to schedule as well as non-schedule air transport operations. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150833018>
- CAR Section - 9 Series M Part I, Issue II (F. No. AV. 27077/1/2010-ANS) dated 17th December 2021 on Metrological service for air navigation. This issues minimum requirements for the metrological services for international air navigation to ensure the flow of information/data necessary for the safety, regularity, and efficiency of air

- navigation. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150850670>
- CAR Section - 2 Series T Part II, Issue III (F. No. 11-690/T-II/2017-AI (2) DGCA-25012(07)/8/2021) dated 10th January 2022 on Flight testing of aircraft for which a certificate of airworthiness has previously been issued. This specifies the conditions for flight testing of aircraft for which a certificate of airworthiness has previously been issued. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150901559>
 - CAR Section - 5 Series F Part II, Issue II (F No. DGCA-15032(02)/1/2021-DAS dated 25th January 2022 on Flight Data Analysis Program (FDAP). This CAR mandates all scheduled and non-scheduled operators to follow the FDAP requirements to determine hazards/shortcomings in the operation of the aircraft. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150936499>
 - CAR Section - 6 Series A Part II, Issue I (F. No. 05-05/2014-AED) dated 20th January 2022 on Requirements for recognition/acceptance of type certificate, restricted certificate, and supplemental type certificate issued by a contracting state for an aeronautical product, viz. aircraft, aircraft engine, and propeller. This deals with the acceptance of TC or RTC issued by a contracting state concerning an aeronautical product. It lays down that it shall accept TC/RTC provided by FAA, EASA, and other recognized authorities provided they are harmonized with the airworthiness standards of FAA/EASA. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150944825>
 - CAR 66 Issue II R5 dated 7th February 2022 on Licensing of Aircraft Maintenance Engineers. This CAR is aimed at harmonizing AME licensing system with EASA Part 66. This contains all the requirements and procedures for AMEs to obtain the license. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=150971569>
 - CAR Section - 2 Series C Part I (F. No. DGCA-25012(7)/26/2021) dated 28th February 2022 on Defect Recording, Reporting, Investigation, Rectification, and Analysis. This specifies how defects/ service difficulties in aircraft and aircraft components are to be

recorded, reported, investigated, and analyzed to take timely corrective/preventive action. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151017627>

- CAR Section 8 Series S Part VIII, Issue I (File No. DGCA-22024/30/2021-FSD) dated 28th February 2022 on Specific Approval for Operational Use of Electronic Flight Bag. This CAR is to harmonize the standards for installation/use of EFB equipment following ICAO Annex 6 as well as provide detailed requirements for obtaining specific approval for the operational use of EFB. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151017709>
- CAR - Section 8 Series S Part I Issue II (File No: AV. 22024/16/2013-FSD) dated 28th February 2022 on the requirements commercial air transport- for extended diversion time operations and operations by turbine-engined aeroplanes beyond 60 minutes to an en route alternate aerodrome. This CAR is to ensure higher standards of safety in case of a diversion of aircraft to an alternate aerodrome. The threshold time prescribed under this CAR varies from 60 mins to 120 mins depending on the class of operators/aircrafts. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151017760>
- CAR Section 8, Series O Part II Issue II (File No: AV-11012/6/2020-FSD) dated 3rd March 2022 that lays down the minimum operational, equipment and instrument requirements for aeroplanes registered in India and engaged in domestic and international air transport operations. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151038619>
- CAR Section 8 Series O, Part VII, Issue III (FILE NO: AV.22024/20/2011-FSD) dated 3rd March 2022 on the requirement for preparation of OM. It states that all air operators are required to maintain an OM detailing the organization's policies on operations and it shall be used by the flight crew and all other operations personnel while carrying out operations. It also lays down the organization and contents of an OM in compliance with ICAO Annex 6 Parts I, II, and III. This CAR finally lays down the procedure for the preparation and updating of the OM and its approval by

- DGCA. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151038731>
- CAR Section 2 Series F Part VII, Issue II (F. No. 11-690/CAR/F-Part/VII/2006-AI (2)) dated 9th March 2022 laid down the requirements to be followed to obtain a special flight permit in respect of an aircraft whose certificate of airworthiness is suspended or deemed to be suspended. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151044790>
 - CAR Section 1 Series C Part I, Issue III (F. No. DGCA-15032(02)/1/2022-DAS) issued on 24th March 2022 on establishment of a SMS, in addition to earlier issued CARs regarding the establishment of SMS by ICAO standards. This CAR lays down minimum acceptable requirements and specifies safety-related processes, procedures, and activities for the establishment of SMS. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151102598>
 - CAR Section 2 Series X Part VII (F. No. DGCA-25012(07)/3/2020-AW) was issued under the provision of Rule 133A on 13th April 2022 with a list of documents to be carried on board by Indian Registered Aircraft; however, it does not absolve an operator from the responsibility of carriage of any other document that is required by any other authority in India. Details on this can be accessed at - <https://www.dgca.gov.in/digigov-portal/Upload?flag=iframeAttachView&attachId=151139770>

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