

The Gazette  **of Pakistan**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

ISLAMABAD, TUESDAY, AUGUST 8, 2023

PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 8th August, 2023

No. F. 9(34)/2023-Legis.—The following Act of *Majlis-e-Shoora* (Parliament) received the assent of the President on 7th August, 2023 and is hereby published for general information:—

ACT No. L OF 2023

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ACT

*to provide for better investigation of accidents and other incidents
arising out of navigation of aircrafts*

WHEREAS it is expedient to provide for better investigation of accidents and other incidents arising out of navigation of aircrafts and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:—

1. Short title, extent, application and commencement.—(1) This Act shall be called the Pakistan Air Safety Investigation Act, 2023.

691(1—22)

Price: Rs. 40.00

- (2) It shall extend to the whole of Pakistan and also apply to—
- (a) a citizen of Pakistan wherever he may be;
 - (b) an aircraft registered in Pakistan wherever it may be;
 - (c) an aircraft registered outside Pakistan but for the time being in or over Pakistan;
 - (d) a person on an aircraft mentioned at clauses (b) and (c); and
 - (e) an aircraft operated by a person who is not a citizen of Pakistan but has his principal place of business or residence in Pakistan.

(3) Nothing in this Act shall apply to an aircraft or persons on board an aircraft that is used for a military purpose unless the Federal Government, by an order, directs that all or any provisions of this Act shall apply to such aircraft and persons generally or in a particular case.

(4) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is any thing repugnant in the subject or context,—

- (a) “accident” means an occurrence associated with the operation of an aircraft which in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked; and in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shutdown, that leads to —
 - (i) fatal or serious injury to a person as a result of his being in the aircraft, or direct contact with any part of the aircraft, including parts which have become detached from it, or direct exposure to jet blast, except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew;
 - (ii) damage to the aircraft or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft, and would normally require major repair or replacement of the affected component, except

for failure of engine or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

- (iii) the aircraft going missing or is completely inaccessible;
- (b) “accredited representative” means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State and where the State has established an accident investigation authority, the designated accredited representative, would normally be from that authority;
- (c) “Act” means the Pakistan Air Safety Investigations Act, 2023;
- (d) “advisor” means a person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation;
- (e) “aircraft” means a machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the surface of the earth;
- (f) “Authority” means the Pakistan Civil Aviation Authority established under the Pakistan Civil Aviation Ordinance, 1982 (Ordinance XXX of 1982);
- (g) “Aviation undertaking” means an entity, person or organization that is affected or benefitted by the carrying out of any function or duty or exercise of any power by the Bureau;
- (h) “Bureau” means the Bureau of Aircraft Accident investigation established under section 3;
- (i) “Convention” means the Convention of International Civil Aviation done at Chicago on seventh day of December, 1944 and any other international convention or treaty on air safety and aircraft accidents to which Pakistan is a signatory;

- (j) "Director" means the Director of the Bureau;
- (k) "Federal Investigation Agency" means the Federal Investigation Agency established under the Federal Investigation Agency Act, 1974 (Act VIII of 1974);
- (l) "incident" means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;
- (m) "information" includes a recording, material or document;
- (n) "investigation" means an investigation under this Act for the purpose of prevention of aircraft accidents, serious incidents and incidents and includes measures to preserve, gather and analyse evidence and information, drawing of conclusion, including the determination of causes and contributing factors and, where appropriate, the making of safety recommendation;
- (o) "investigator" means an employee of the Bureau or any other person having reasonable familiarity, experience and skills in air safety and accident investigations;
- (p) "Minister" means the Minister for Aviation;
- (q) "operator" means a person, organization or enterprise engaged in or offering to engage in operation of an aircraft;
- (r) "rules" mean rules made under this Act;
- (s) "Secretary" means the Secretary to the Federal Government, Aviation Division;
- (t) "serious incident" means an incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of an aircraft which in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down; and
- (u) "State" means a State signatory to the Convention other than Pakistan.

3. **Bureau of Aircraft Safety Investigations.**—(1) As soon as may be, but not later than six months of the coming into force of this Act, the Federal Government shall, by notification in the official Gazette, establish the Bureau of Aircraft Safety Investigations with its headquarters at such place as may be mentioned in the notification.

(2) The Bureau shall comprise of the Director, who shall be the head of the Bureau, and such number of investigators, officers, experts, servants and other persons, as the Federal Government may, from time to time, deem fit.

(3) The Director, investigators, officers, experts, servants and other persons in the employment of the Bureau shall be appointed in the manner prescribed by the rules.

(4) The Bureau shall, among other things, discharge the following functions, namely —

- (a) preliminary inquiries and investigations under this Act;
- (b) identification of safety deficiencies as evidenced by aircraft accidents, serious incidents and incidents;
- (c) making recommendations to eliminate or reduce any such deficiency;
- (d) to advise on and support implementation of any such recommendation;
- (e) air safety studies to prepare and disseminate safety recommendation; to establish and maintain an accurate record of accidents, serious incidents and incidents for reference;
- (g) to affect any obligation of Pakistan in relation to air safety and accidents investigations under the Convention; and
- (h) any other matter connected with or ancillary to the above.

4. **The Director, his duties, powers and functions.**—(1) The Director shall be appointed by the Prime Minister in the manner prescribed by the rules for a usual term of three years from the date of assumption of office.

(2) The Director may, be notice in writing, resign from his office and such resignation shall take effect from the date of its acceptance by the Prime Minister.

(3) The Prime Minister may, after giving the Director a reasonable opportunity of being heard, remove him from office if he—

- (a) has, in the opinion of the Prime Minister, failed to discharge, or has become incapable of discharging, his duties effectively under this act;
 - (b) has been convicted of an offence involving moral turpitude; or
 - (c) is knowingly involved in conflict of interest situation in terms of Section 11.
- (4) The Director shall receive such salary and allowances and be subject to such conditions of service as may be determined by the Prime Minister.
- (5) The Director shall—
- (a) administer the Bureau for due discharge of its functions;
 - (b) ensure that investigations under this Act are independent, fair, effective and concluded in the most expeditious manner;
 - (c) advise the Minister and Secretary on air safety and accidents and other matters related to or ancillary to this Act; and
 - (d) carry out such other functions and duties as are imposed upon him under this Act, the rules or the Standing Orders.
- (6) Subject to the provisions of this Act, the rules and the Standing Orders, the Director may exercise such powers and take such measures as are necessary for carrying out the purpose of the Act.
- (7) In the absence or inability of the Director to perform his functions, the Secretary may appoint a senior officer of the Bureau to discharge the functions and exercise the powers of the Director during his absence or inability.

5. **Powers of the investigators.**—(1) For the purposes of an investigation under this Act, an investigator shall have the powers to—

- (a) regulate, prohibit and control access to the scene of an accident, serious incident or incident;
- (b) have access to the site of the accident, serious incident or incident and examine the aircraft involved, its parts, contents and components, the wreckage, any remains and marks resulting from the accident, serious incident or incident, any parts, components, wreckage or remains removed from the site;

- (c) preserve the aircraft, its parts, contents, components, wreckage, remains and marks mentioned at clause (b) by any means including photographic means, and where in view of the investigator, it is necessary to do so, remove any of the parts, component, wreckage or remain for safe custody or further examination;
- (d) require the attendance of any person, by summons under his hand, whom he thinks fit to call before him and examine for such purpose and to require answers or returns to any inquiries he thinks fit to make;
- (e) require any such person to make and to sign a declaration regarding the true nature of the statements made by him;
- (f) have access to all books, notes, records, photographs, papers and other documents, recordings and transcripts or other information, articles and other evidence which he considers necessary for the investigation, and where required ask for and enforce the production of the same by a person who is in or is reasonably expected to be in their possession; and
- (g) where he considers it necessary, retain any such book, note, record, photograph, papers, document, recording, transcript, information, article or evidence until the completion of investigation.

(2) Where in the opinion of the Director such an action is necessary, he may authorize an investigator in writing to, after presenting the authorization to owner or occupier, enter, inspect and search any land or premises, building, dwelling or an aircraft and take in his possession any book, note, record, photograph, paper and other document, recording, transcript or other information and article in relation to the investigation.

(3) Where, an investigator considers it necessary that —

- (a) medical examination of a person directly or indirectly involved in the operation of an aircraft is relevant to the investigation, he may, by a notice under his hand, require that person to submit to medical examination;
- (b) performance of an autopsy on the body of a deceased person, or the carrying out of other medical examination of any human remain, is relevant to the investigation, he may cause such autopsy or medical examination to be performed and, for that purpose, by notice under his hand, require the person having custody of the body of the deceased person or other human remains, to permit the performance of that autopsy or that medical examination; and

- (c) a test, including a test to destroy, is required on the aircraft involved in an accident, serious incident or incident, or its components, contents or parts, wreckage or any book, note, record, photograph, papers and other document, recording, transcript, information or other article received under sub-section (1) or seized under sub-section (2), he may cause that test to be conducted; and to the extent it is practicable and does not unreasonably impede the progress of investigation, such test shall be conducted in the presence of the owner or any person who appears, on reasonable grounds, to be in lawful possession of it or otherwise entitled to such presence.

6. **Notification of accident or incident.**—(1) Where an accident, serious incident or incident occurs, it shall be the duty of the following to send a notice of such occurrence to the Director with minimum delay and through the most suitable and quickest Means available, but in no case later than twenty-four hours—

- (a) the pilot in-command of the aircraft and in case he is killed or incapacitated, the senior most member of the aircraft crew, or the owner, operator, hirer or other person on whose behalf he was in-command of the aircraft;
- (b) the relevant airport operator;
- (c) the officer-in-command of the relevant air traffic control unit and the watch supervisory officer of air traffic control; and
- (d) any other person specified for this purpose under the rules.

(2) The notice under sub-section (1) shall contain such information and be served to such persons other than the Director as may be specified in the rules.

(3) Immediately upon receipt of the notice, the Director shall notify the facts of the accident, serious incident, or incident to the Secretary and such other States and entities as is required under the Convention.

7. **Preliminary inquiry.**—(1) The Director may authorise any person including an officer of the Bureau to conduct a preliminary inquiry into an accident, serious incident or incident and submit to him preliminary report to assess the classification of the occurrence and the extent of and expertise needed for the investigation.

(2) The person authorised to conduct preliminary inquiry shall have all the powers of an investigator under this Act.

8. Institution and public notice of an investigation.—(1) Subject to other provisions of this act, the Director shall investigate the following accidents and serious incidents involving an aircraft —

- (a) in a location in or over territory of Pakistan; and
- (b) registered in Pakistan in a location not being the territory of any State.

(2) The Director shall investigate incidents that or repetitive or impose a risk to air safety and may also investigate such other incidents which in which view require investigation in interest of improving air safety.

(3) Where the Director does not initiate an investigation into an accident, serious incident or incident within such period as may be specified in rules, the Secretary may, where he considers it appropriate to do so, requires the Director to initiative the investigation.

(4) Where the Director considers it appropriate to do so, he may delegate the whole or any part of tne investigation to a State or any other entity constituted for investigations for the propose of this Act, under the Convention by mutual arrangement and consent.

(5) An investigation under this Act shall be conducted by two or more investigators of whom one should be the investigator in charge.

(6) Unless otherwise directed by the Director, every investigation shall be held in private.

(7) Immediately after the institution of an investigation into an accident or serious incident, the Director shall, through a public notice, inform that the investigation is being held and any person who may desire to make a representation or to produce any information or evidence concerning the circumstances or cause of the accident or, as the case may be, serious incident, may do so in writing within the time specified in the notice.

(8) In the like manner, where he considers it necessary to do so, the Director may solicit information or evidence through a public notice after the institution of an investigation into an accident.

9. Objective of investigations by the Bureau.—(1) The sole objective of and investigation under this Act shall be the prevention of accidents, serious incidents and incidents and not to apportion blame or liability.

(2) An investigation under this Act shall not refrain from fully reporting the causes or contributing factors of an accident, serious incident or incident merely because any fault or liability might be inferred from it.