English Translation

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The President has given assent to the following Act, adopted by the Parliament, on 07 Falgoon 1423/19 February 2017, and now this Act is hereby being published for public information:

Act No 03 of 2017

An Act to make a new law upon repealing and updating the Civil Aviation Authority Ordinance, 1985,

Whereas, Paragraph 19 of the Forth Schedule of the Constitution of the People's Republic of Bangladesh that relates to ratification and confirmation of the Ordinances which were made by promulgating military proclamations during the period from 24th March, 1982 to 11th November, 1986 is omitted by the Constitution (Fifteenth Amendment) Act, 2011 (Act 14 of 2011); and the martial law regime of that period and the Constitution (Seventh Amendment) Act, 1986 (Act 1 of 1986) that gave validity to those Ordinances are declared respectively unconstitutional and void by the Appellate Division of the Supreme Court of Bangladesh vide its judgment in Civil Appeal No. 48/2011; and

whereas several of those ordinances are kept in force by the Act No. 7 of 2013; and

Whereas, the Government decides to make new laws in Bangla with necessary changes and amendments to those Ordinances that are considered necessary, after appreciating the necessity and relevancy of such ordinances and soliciting opinions thereon from all stake holders and relevant Ministries or Divisions; and

English Translation

Whereas, in the light of the above-mentioned decision of the Government, it is necessary and expedient to make a new law upon repealing and updating the Civil Aviation Authority Ordinance, 1985 (Ordinance No. XXXVIII of 1985);

Therefore, it is enacted as follows:

CHAPTER I
GENERAL PROVISIONS

1. Short title, commencement and application.- (1) This Act may be called the Civil Aviation Authority Act, 2017.

(2) It shall come into force immediately.

(3) This Act shall not apply to any airdrome, airport, airfield established for use by defense forces or any other activities and matters related thereto.

2. Definitions.- Unless there is anything repugnant to the subject or context, in this Act-

(1) "**ICAO**" means International Civil Aviation Organization established under Chicago Convention;

(2) **"Air Navigation Order"** or **"ANO"** means an order issued under this act for regulating the activities relating to aeronautical or non-aeronautical matters;

(3)"**Authority**"means the Civil Aviation Authority of Bangladesh established under section 3;

(4) "**Chairman**" means the Chairman of the Authority;

(5) "**fund**" means the fund formed under section 18;

(6) "**regulations**" means the regulations made under this Act;

(7) "**rules**" means the rules made under this Act;

(8) "**aircraft**" means any machine that can derive support in the atmosphere from reactions of the air, not against the surface of the earth, and which includes balloons, whether captive or free, airships, kites, drones, gliders, and other flying machines;

(9) "**aerodrome**" means a defined area on land or water, including buildings, installations and equipments, intended to be used, either wholly or in part, for the arrival, departure and surface movement of an aircraft;

(10**)** "**air transport service**" means any service provided for the purpose of transporting passengers, goods, mails and other items by air;

(11) **"special inspector"** means an inspector who is specially an expert in inspection;

(12) "**airport**" means an aerodrome where, having regard to the importance of civil aviation, adequate facilities have been developed;

(13) "**Civil aircraft**" means an aircraft other than state aircraft;

(14) **"Civil aviation"** means any general or commercial aviation or any civil aircraft to conduct aerial operations;

(15) **"Board"** means the board constituted under section 9;

(16) **"Chicago Convention**" means the Convention on International Civil Aviation signed in 1944 at Chicago in United States of America;

(17) **"member"** means a member of the Authority.

CHAPTER II
Establishment of Authority, etc

3. Establishment of Authority.- (1) For the purpose of this Act, the Civil Aviation Authority which was established under the Civil Aviation Authority Ordinance, 1985 (Ordinance No. XXXVIII of 1985) shall be deemed to have been established under this Act.

(2) The Authority shall be a body corporate, and have perpetual succession and a common seal, and subject to the provisions of this Act, have power to acquire, hold and dispose of property, both movable or immovable, and shall by the said name sue and be sued.

4. Powers and Functions of the Authority.- Powers and Functions of the Authority shall be as follows:-

(a) subject to the provisions of other laws for the time being in force, management, planning, construction, operation and repair of all civil airdromes and airports including their surrounding airspace, and control of all navigable air routes in the Airspace of Bangladesh;

(b) to make and implement plan or program on the following matters:-

(i) air traffic management and air navigation services;

(ii) aeronautical communication services at the civil airports and aerodromes in the country;

(iii) services relating to non-aeronautical and other aeronautical matters;

(iv) flight inspection, and safety and security related oversight;

(v) search and rescue services;

(vi) aircraft crash, fire, and rescue services at all airports and aerodromes;

(vii) security arrangement for all airports and aerodromes;
(viii) safety of civil aviation;
(ix) estate management of the airports and aerodromes;
(x) efficient management of the private owned airports and aerodromes or heliports;
(xi) aviation agreement;

(c) for the approval of the Government, preparation of short, medium and long term development plan for the purpose of the promotion of safe, effective, adequate, economical and properly coordinated civil air transport services and development of infrastructure;
(d) seeking and obtaining advice and assistance in the preparation and execution of any plan from any local body or agency of the Government;

(e) necessary works to undertake, investigation to hold and orders to issue;

(f) with the prior approval of the Government, execution of cooperation agreement related to civil aviation with the contracting states of the Chicago Convention;
(g) publication of this Act, and the rules, regulations, ANOs, orders, instructions, circulars, etc made there under in a manner that is highly convenient for the public to know and use;
(h) cause or to be made studies, surveys, experiments or technical research and bear the cost of any such studies, surveys, experiments or technical research made by any other agency at the request of it;

(i) undertake any government approved works, incur any expenditure, procure consultant or expert services and procure vehicles, plants, machinery and material, required for its use;
(j) subject to the instructions given by the Government from time to time, carry out other functions conferred on it;

(k) discharge any other functions that are necessary to achieve the purposes of this Act.

5. Chairman and Members of the Authority.-(1) The authority shall consist of a Chairman and six members.

(2) The Chairmen shall be the Chief Executive of the Authority.

(3) The Chairmen and the members shall be whole time officers of the Authority and they will be appointed by the Government and, the tenure and terms of conditions of their appointment shall be determined by the Government.

(4) If a vacancy occurs in the office of the Chairman or if the Chairman is unable to discharge the functions of his office on account of absence, illness or any other cause, the member selected by the Government shall discharge the functions of the Chairman until a new Chairman is appointed to take charge or the Chairman becomes able to take charge of his office.

6. Qualifications for appointment to the posts of the Chairman and the Members, and their removal and resignation.- (1) No person shall be qualified to be the Chairman or a member or shall continue to be the Chairman or a member, if he-

(a) is not a citizen of Bangladesh;

(b) is dismissed from government service;

(c) is convicted of any offence of moral turpitude;

(d) is declared by any competent court to be insane;

(e) is declared by any competent court to be insolvent;

(f) is declared by any Bank or Financial Institution to be a defaulter;

(g) is not experienced in civil aviation management or similar technical matter; or

(h) is an owner of any aeronautical enterprise or of any stock or bond thereof or has financial involvement therein or is connected with any business or vocational work or appointment thereof.

(2) The Government may, at any time, remove the Chairman or any member, if he

(a) fails or declines or, to the estimation of the Government, is unable to discharge any duty entrusted upon him by this Act;

(b) to the estimation of the Government, misuses his power.

(3) Despite anything contained in subsection (2), the Chairman or a member may, at any time before completion of his tenure, resign from his post by a letter addressing the Government duly signed by him.

7. Responsibility and accountability of the Chairman and the Members.- (1) The Chairman and the members shall be responsible to carry out the following activities:-

(a) to exercise all the powers under this Act for efficient accomplishment of all functions of the Authority;

(b) to discharge all duties for efficient management and administration of the Authority; and

(c) to exercise control over all the employees and the activities of the Authority.

(2) The Chairman and the members shall be accountable to the Government, for their duties to be discharged and powers to be exercised.

CHAPTER III
ADMINISTRATION OF THE AUTHORITY

8. General management and Administration.-The general management and administration of the Authority shall vest in a Board and it may exercise all such powers and do all such acts as may be exercised, or done by the Authority.

9. Composition of the Board.-(1) The Board shall consist of the Chairman and nine other members as follows:-.

(a) Chairman, Ex-officio, shall also be the Chairman of the Board;
(b) six members, Ex-officio;
(c) chief Engineer of the Authority, Ex-officio;
(d) one representative, not below the rank of a joint secretary, from the Ministry of Civil Aviation and Tourism;
(e) one representative, having experience in civil aviation, selected by the Government.

(2) member selected under clause (e) of sub-clause (1) shall retain the post for the next 3(three) years from the date of his selection:
provided that, the Government at any time before the completion of the tenure may, without giving any cause, acquit such selected member from the post of a board member, and such member also may offer resignation to the Government through a letter duly signed by him.

10. Meeting of the Board: (1) The date, time and places for the meetings of the Board shall be determined by the Chairman of the Board.

(2) All meetings of the Board shall be presided over by the Chairman of the Board and, in his absence, by a member of the Authority authorised by him.

(3) To constitute a quorum at a meeting of the Board, not less than one third of its members, which includes the Chairman of the Board, shall be present, but quorum may not be required for an adjourned meeting.

(4) At a meeting of the Board, each member present including the presiding member shall have one vote, and every decision in the meeting is to be taken on the basis of majority votes, but in the event of equality of votes, the presiding member shall have a second or casting vote.

(5) No act or proceeding of the Board shall be invalid or be called in question merely on the ground of existence of any vacancy in, or defect in the composition of, the Board.

11. Appointment of employees, etc.-(1) The Authority may, in accordance with organogram as approved by the government, and general or special instructions as issued by the Government from time to time, appoint requisite number of employees for the performance of its functions.

(2) The appointment and terms of services of the employees of the Authority shall be determined by regulations.

12. Appointment of experts, advisors, etc.- The Authority, if necessary for performance of its functions, with the prior approval of the Government, may appoint experts, advisors, consultants, special inspectors, lawyers and agents.

13 Cooperation with other organizations.- The Authority may take cooperation from and give cooperation to any agency or organization home and abroad.

14. Acquisition of land and property.- Any land and property required by the Authority for the purposes of this Act shall be deemed to have been required for a public interest, and such land and property as required by the Authority may be acquired or requisitioned through competent authority and in accordance with the existing provisions of laws and regulations that relate to acquisition of land and property.

15. Exchange of information.- The Chairmen may, through proper channel, exchange with any country or organization any information that relates to civil aviation.

16. Delegation of power and responsibilities.- The Authority may, if necessary, by general or special written order, delegate, subject to such conditions as specified therein, if any, any power under this Act to the Chairman, any member or any employee of the Authority.

17. Power to levy and collect government fees or taxes and service charges.-

(1) The Government may impose and collect government fees or taxes on any civil aviation matters where necessary.

(2) The Authority may, with prior approval of the Government, levy and collect the following fees, charges, royalties, premiums and rentals:

(a) air route navigation and aeronautical charge;

(b) service charge to be paid by the passengers travelling by air;

(c) fees, charges, premium and rentals for use of any property including aircraft belonging to the Authority;

(d) aircraft landing, parking and housing charges;

(e) security and other related charges;

(f) fees and charges on any certificate or license issued, and power or approval given by, the Authority, and transfer and renewal thereof, and on any activities relating to inspection, audit, oversight, holding examination and test;

(g) any other charges relating to civil aviation.

(3) The Chairman may publish a schedule of the fees, charges, royalties, premiums and rentals that are imposed by the Authority.

(4) The Authority may, for urgent and national requirement and with prior approval of the Government, exempt any fees or charges to be imposed.

(5) Any money of the Authority which becomes due from any person or organization under this Act shall be recoverable as public demand under the provisions of the Public Demand Recovery Act, 1913 (Ben Act No. III of 1913).

18. Fund of the Authority.- (1) For the purpose of this Act, there shall be a fund to be called the "Civil Aviation Authority Fund", and all money collected from the following sources shall be credited to such fund:-

(a) any grant made the Government;

(b) any loan taken from the Government;

(c) any money from the sale of bond issued by the Authority with prior permission of the Government;

(d) any loan received by the Authority with prior permission of the Government;

(e) any foreign support and loan received with prior permission of the Government;

(f) all money acquired under sub-section (2) of section 17 and

(g) any money received from any other legal sources.

(2) The money of the Fund may be kept deposited with one or more Scheduled Banks, and the Fund shall be administered in a manner prescribed by rules.

Explanation: "Scheduled Bank" means the scheduled bank as defined in Article 2(j) of the Bangladesh Bank Order, 1972 (P.O No. 127 of 1972).

(3) Money may be withdrawn from the Fund by joint signature of the Chairman and an employee of the Authority authorized by the Board.

(4) All expenditures necessary for the payment of salaries, allowances and against other terms of service of the whole time and the contractual employees and other expenses necessary for the Authority shall be made from the Fund of the Authority.

(5) The money of the Fund or any part thereof may be invested in any sector approved by the Government.

19. Budget.- The Authority shall, by such date in each year as may be prescribed by the Government, submit to the Government for approval a budget for each financial year showing the estimated receipt and expenditure, mentioning the amount of money necessary from the Government for that financial year.

20. Accounts and Audit- (1) The Authority shall properly maintain its accounts and prepare an annual balance sheet containing the accounts of loss and profit, and shall comply with the general instructions, issued by the Government from time to time, for maintaining such accounts.

(2) The Comptroller and Auditor-General of Bangladesh, hereinafter referred to as 'Auditor-General' shall audit the accounts of the Authority each year and shall submit necessary copies of the report to the Government and the Authority.

(3) The Authority shall take immediate proper steps to meet the objections, if raised in the report mentioned in sub-section (2).

(4) Despite the audit referred to in sub-section (2), the accounts of the Authority may be audited by a chartered accountant within the meaning of Bangladesh Chartered Accountants Order, 1973 (P.O No. 2 of 1973) and for that purposes the Authority may appoint one or more than one chartered accountants, and the chartered accountants so appointed shall be entitled to such remuneration as may be fixed by the Government.

(5) For the audit of the accounts of the Authority, the Auditor-General or any auditor authorised by him in this behalf or the chartered accountant appointed under sub-section (4) shall have access to all records, documents, annual balance sheet, cash or deposits, surety, fund or other assets, etc and may examine the Chairman, any member or any employee of the Authority.

21. Power to entry.- The Chairman or any person authorised by him in writing in this behalf may, with or without any assistant or workman, enter into or upon any land in order to make any inspection, survey, enquiry or to erect pillar, make boring and excavation or to do such other act as may be necessary for the purposes of this Act:

Provided that no such entry shall be made without giving the owner or the occupier of the land at least 3 (three) days' prior notice of the intention to make such entry:

Provided further that in the case of aircraft accident or other similar emergency matters, no such notice shall be required to be issued.

(2) The Authority shall pay compensation for the damage, if any, caused to the land on account of any entry made under sub-section (1) at such rate and in such manner as may be prescribed.

22. Control of Air space.- (1) With prior approval of the Board, the Chairman may, by ANOs, and regulations, delegate, subject to such conditions and restrictions as he deems fit, any power to use navigable airspace for the purpose of ensuring security of aircraft and the effective use of the said airspace.

(2) The power of the Authority under this section shall be applicable only to that air space whose air traffic management responsibility has not entrusted to any foreign country under any international agreement or any other arrangement.

23. Inquiry.- The Government may by itself inquire into the allegation against any activities of the Authority or cause such allegation to be inquired into by any other authority or organization.

24. Committees, etc.- For the safety and security of civil aviation in Bangladesh, the Authority may form committees and determine the terms of references and the rules of procedure of such committees.

25 Power to borrow loan.- For the purpose of this Act, the Authority may, if necessary, borrow loan with prior approval of the Government.

26. Execution of plan framed **or sponsored by local body or authority, etc.-** Notwithstanding anything contained in this Act, the Authority may, subject to prior approval of the Government, undertake the execution of any plan relating to civil aviation activity as framed or sponsored by any local or foreign body or agency or exercise technical supervision and administrative and financial control over the execution thereof, on such terms and conditions as may be agreed upon the Authority and such body or agency.

27. Submission of annual report, etc.- (1) The Authority shall, within 90 (ninety) days from the day of the end of every financial year, submit a report to the Government in respect of its activities performed in that year.

(2) The Government may, at any time, call for any report and statement or explanation from the Authority in respect of any matter related thereto, and the Authority shall be bound to furnish it to the Government.

CHAPTER IV
MISCELLANEOUS

28. Inapplicability of several provisions of Bangladesh Labour Act, 2006 for Authority.- The provisions contained in Chapter XIII and XIV of the Bangladesh Labour Act, 2006 (Act No.42 of 2006) shall not be applicable for the Authority.

29. Return on investment.- The Government may charge, at a rate to be fixed by it, a return on its investment.

30. Power to make rules.- The Government may, by a notification published in the official gazette, make rule to carry out the purpose of this Act.

31. Power to make regulations.- To carry out the purpose of this Act, the Authority may, with prior approval of the Government, and by a notification published in the official gazette, make regulations that are considered necessary or expedient and are not inconsistent with this Act or any rules made thereunder.

32. Power to make ANOs.- For the purpose of this Act, the Chairman may issue updated ANOs, through a notification published in the official Gazette, in accordance with the annexes to the Chicago Convention & other documents related thereto, and international practices related to civil aviation that are considered necessary to him.

33. Repeal and savings.- (1) As soon as may be after the commencement of this Act, the Civil Aviation Authority Ordinance, 1985 (Ord. No. XXXVIII of 1985), hereinafter referred to as 'the Ordinance', shall stand repealed.

(2)-Despite such repeal under sub-section (1), under the Ordinance, -

(a) the board constituted, shall be dissolved soon after the constitution of the Board under this Act;

(b) all acts done or measures taken, shall be deemed to have done or taken under this Act;

(c) all agreements, records or instruments executed shall continue to be in force in such a manner as if they were executed under this Act;

(d) all rules or regulations made, notifications issued, orders, instructions, approvals, recommendations given, plan or program taken , and budget approved shall be deemed to have made, issued, given and approved under related sections of this Act, subject to being consistent therewith.

(3) Soon after the repeal of the Ordinance under sub-section (1), of the Civil Aviation Authority, constituted thereunder-

(a) any suit filed against or by the authority or proceedings adopted or any activities initiated by the authority and remained pending may be disposed of in such way as if the Ordinance were repealed;

(b) all debts, liabilities and all legal obligations of the Authority shall be deemed to be the debts, liabilities and obligations of the Authority under the provisions of this Act;

(c) all employees shall continue to work or be employed on the same terms and conditions as they were until changed in accordance with the provisions of this Act, and as the case may be, shall hold their posts;

(d) all assets, rights, powers, authorities and benefits, fund, movable and immovable property, cash, bank deposits, fund including all securities and all related books, registers, other documents including records shall be transferred to the Authority and shall belong to it.

34. Publication of authentic English text.-

(1) After promulgation of this Act, the Government shall, by a notification published in the official Gazette, publish an Authentic English Text of this Act.

(2) In the event of conflict between the Bangla text and the English text, the Bangla text shall prevail.

Dr. Md. Abdur Rob Hawlader
Senior Secretary