

Aviation Industry



What's the Buzz?

[SpiceJet Delhi bound flight takes off sans ATC clearance, DGCA orders probe.](#)

It was reported on 30th December 2021 that the SpiceJet flight that took off from Rajkot city of Gujarat and landed in New Delhi did not have the clearance from the Air Traffic Controller (ATC).

The Office of Directorate General (DGCA) under its definitions section (1) of the Civil Aviation Requirements under Section 9- Air Space and Air Traffic Management (Rules of the Air) defines Air Traffic Control Clearance as [Authorization for an aircraft to proceed under conditions specified by an air traffic control unit.](#)

Thus, in the above said situation the pilots did not take the requisite permission/ clearance from the Rajkot airport thereby flouting the DGCA Rules of the Air.

An aircraft has to take several permissions from ATC before it can take off from an airport for example: It needs to take permission to push back from the aircraft stand, permission is required before starting the engines. And post that it has to take permission to stand in the line-up, thus finally, a final permission is ascertained for a take-off.

Hence, it is very clear now that there are plethora of rules and regulations already existing in the Aviation industry. It is essential to have a brief note of the same by the Aircrafts and the passengers concerned.



Who governs the Indian Aviation Industry?

In India, there are three main bodies governing the Aviation industry. They are:

Ministry of Civil Aviation

The Ministry of Civil Aviation is the principal authority concerned with the administration and development of the Indian Aviation industry. It is this body which ensures the proper implementation and execution of laws and rules such as The Aircraft Act 1934, the Aircraft Rules 1937 etc.

Directorate General of Civil Aviation (DGCA)

It is the main body ensuring safety issues, regulation of air transport services, enforcement of civil air rules and regulations etc.

Airports Authority of India

The AAI creates, maintains and upgrades the Civil Aviation infrastructure both on ground and in the airspace of India.

So, what are the major Laws overseeing the Indian Civil Aviation?

The Aircraft Act 1934

This is the main domestic legislation which governs the Indian aviation sector. Its primary function is to empower the Central government to make and execute rules for regulating the manufacture, sale, use, operation, export, import and safety of all civil aircrafts.

The Aircraft Rules 1937

The Aircraft Rules 1937 applies to Indian-registered aircraft (and to persons thereon), wherever they may be (with certain exceptions), and all aircraft present in or over India. These rules stipulate the parameters for determining air worthiness, maintenance of aircraft, general conditions for flying and safety, registration of aircraft and the conduct of investigations in case of any discrepancy.

The Aircraft Rules in Part II (General Conditions of Flying), Part III (General Safety Conditions) and Part IV (Airworthiness), detail the various safety requirements to be observed by operators. The operator must, among other things, apply for a certificate of airworthiness (CoA) from the DGCA prior to flying the aircraft.

The Civil Aviation Requirements.

The Civil Aviation Requirements (CAR) ensures the general requirements, procedures and practices to be adhered to by all stakeholders/organizations in order to fulfil the duties and obligations of India under the Chicago Convention relating to international civil aviation. Among other duties, it addresses issues relating to the import, registration, safety and certification of aircraft operations.

Also, other significant legislations concerning the Indian Aviation industry are: Airports Authority Act 1994, Airports Economic Regulatory Authority of India Act 2008, Carriage by Air Act 1972, the Anti Hijacking Act 2016 etc.

What's in store for the Passengers?

The legislations in the Indian Aviation industry are just not limited to aircrafts, commercial dealings, trades etc. A fair treatment and expected behavioural guidelines are instated in advance.

The Aircraft Rules 1937 conjointly read with the Indian Penal Code 1860, deals with the modalities of an ideal behaviour expected from the passengers. The DGCA in 2010 incorporated two new rules in the Aircraft Rules, 1937. The Rule 22 of the Indian Aircraft Rules 1937 states that no person who is on board an aircraft shall indulge in the acts of assault, intimidation or threatening – either verbally or physically against a member of the crew. The passengers shall not indulge in any acts which hinder the performance of the duties of the crew or reduce their ability to perform their duty. Rule 23 of the said Act goes on prohibiting consumption of alcohol or narcotic substances which might endanger the safety in the Air.

So, what about flight delays and cancellations?

One of the most harrowing times a passenger faces is the abrupt flight delay or cancellation. Though Prima facie, as a general rule, in events of ‘force majeure’ or extraordinary events which are not in control of the airline, the airline cannot be forced to compensate. But if the flight cancellation has not been intimated to the passenger atleast two weeks before the scheduled time, the passenger can claim a full refund or alternate flight as observed in the below scenarios:



| Scenario | Rights |
|---|---|
| Flights with a block time of up to and including one hour | <i>Compensation of INR 5,000 or a booked one-way basic fare plus airline fuel charge, whichever is less, will be payable.</i> |
| Flights with a block time of between one and two hours | <i>Compensation of INR 7,500 or a booked one-way basic fare plus airline fuel charge, whichever is less, will be payable.</i> |
| Flights with a block time of more than two hours | <i>Compensation of INR 10,000 or a booked one-way basic fare plus airline fuel charge, whichever is less, will be payable.</i> <i>(Courtesy: Mondaq)</i> |

What are the recent judicial trends concerning the Aviation Industry?

Recently in the case of *Kunal Kamra Vs Indigo Airlines Ltd (2020)* an arbitrary 6 month ban was instituted against the Indian comedian, Mr Kunal Kamra even before an inquiry or internal committee was given a chance to investigate on the same. Following the similar trend, other airlines too adopted this stringent action. Thus, there looms an element of arbitrariness in the said Rules which has given unproportionate amount of power to the Airlines against the passengers.