

HOSPITALITY LAW



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ISBN 978-93-91071-74-5

Edition : 2020

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ROLE OF SELF INSTRUCTIONAL MATERIAL IN DISTANCE LEARNING

The need to plan effective instruction is imperative for a successful distance teaching repertoire. This is due to the fact that the instructional designer, the tutor, the author (s) and the student are often separated by distance and may never meet in person. This is an increasingly common scenario in distance education instruction. As much as possible, teaching by distance should stimulate the student's intellectual involvement and contain all the necessary learning instructional activities that are capable of guiding the student through the course objectives. Therefore, the course / self-instructional material are completely equipped with everything that the syllabus prescribes.

To ensure effective instruction, a number of instructional design ideas are used and these help students to acquire knowledge, intellectual skills, motor skills and necessary attitudinal changes. In this respect, students' assessment and course evaluation are incorporated in the text.

The nature of instructional activities used in distance education self- instructional materials depends on the domain of learning that they reinforce in the text, that is, the cognitive, psychomotor and affective. These are further interpreted in the acquisition of knowledge, intellectual skills and motor skills. Students may be encouraged to gain, apply and communicate (orally or in writing) the knowledge acquired. Intellectual- skills objectives may be met by designing instructions that make use of students' prior knowledge and experiences in the discourse as the foundation on which newly acquired knowledge is built.

The provision of exercises in the form of assignments, projects and tutorial feedback is necessary. Instructional activities that teach motor skills need to be graphically demonstrated and the correct practices provided during tutorials. Instructional activities for inculcating change in attitude and behavior should create interest and demonstrate need and benefits gained by adopting the required change. Information on the adoption and procedures for practice of new attitudes may then be introduced.

Teaching and learning at a distance eliminates interactive communication cues, such as pauses, intonation and gestures, associated with the face-to-face method of teaching. This is

particularly so with the exclusive use of print media. Instructional activities built into the instructional repertoire provide this missing interaction between the student and the teacher. Therefore, the use of instructional activities to affect better distance teaching is not optional, but mandatory.

Our team of successful writers and authors has tried to reduce this.

Divide and to bring this Self Instructional Material as the best teaching and communication tool. Instructional activities are varied in order to assess the different facets of the domains of learning.

Distance education teaching repertoire involves extensive use of self- instructional materials, be they print or otherwise. These materials are designed to achieve certain pre-determined learning outcomes, namely goals and objectives that are contained in an instructional plan. Since the teaching process is affected over a distance, there is need to ensure that students actively participate in their learning by performing specific tasks that help them to understand the relevant concepts. Therefore, a set of exercises is built into the teaching repertoire in order to link what students and tutors do in the framework of the course outline. These could be in the form of students' assignments, a research project or a science practical exercise. Examples of instructional activities in distance education are too numerous to list. Instructional activities, when used in this context, help to motivate students, guide and measure students' performance (continuous assessment)

PREFACE

We have put in lots of hard work to make this book as user-friendly as possible, but we have not sacrificed quality. Experts were involved in preparing the materials. However, concepts are explained in easy language for you. We have included many tables and examples for easy understanding.

We sincerely hope this book will help you in every way you expect. All the best for your studies from our team!

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BBAATR-207

Hospitality Law

BLOCK 1 : GENERAL LAWS FOR AIRLINES

UNIT 1 INTRODUCTION AND ORIGIN OF AIRLINE LAW

UNIT 2 LEGAL AND REGULATORY FRAMEWORK FOR AVIATION
IN INDIA

UNIT 3 PRODUCT LIABILITY IN AVIATION

GENERAL LAWS FOR AIRLINES

Block Introduction :

The aviation industry is a very structured and disciplined field where deviation from dynamics of the system may lead to major problems. Air law includes the regulatory compliances and is an intricate legal framework. There are different laws, policies, regulations and procedures that are result of international conventions. Apart from that bilateral and multilateral agreements of different countries play a major role in adhering to the different regulations. National laws of different countries also play a major role in aviation and every country has to follow them strictly in all sectors including aviation. In this block you shall learn about major international treaties, conventions and regulations that contributed to the aviation laws as is followed today.

Block Objectives :

- To list the history and origination of airline law.
- To understand the role of different international conventions pertaining to airline law.
- To list the various agencies working in India for airline regulations.
- To enumerate the functions of different agencies in India for airline regulations.
- To understand the different airline related laws of India and their reference to International context.
- To understand the concept of product liability in the aviation industry.
- To list the different grounds for product liability according to international protocols.

Block Structure :

Unit 1 : Introduction and Origin of Airline Law

Unit 2 : Legal and Regulatory Framework for Aviation in India

Unit 3 : Product Liability in Aviation

UNIT STRUCTURE

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1.0 LEARNING OBJECTIVES :

- To define law and airline law specifically.
- To identify the evolution of airline law through a specific timeline.
- To list several international conventions and treaties to understand the basis for the formation and implementation of airline law globally.
- To understand the airline laws related to the Indian regulatory perspective.
- To list regulations related to airline, safety and security.

1.1 INTRODUCTION :

“I confess that in 1901, I said to my brother Orville that man would not fly for 50 years”
– *Wilbur Wright.*

Aviation Industry has evolved manifold from the time Wilbur Wright commented. He invented the aerodynamic flying machine by 1905 and today man has reached beyond the stratosphere of the Earth into Space. To operate a wide network of aircrafts across countries there is a need for uniformity and structured order. A lot of smaller components need integration to operate the aviation business. Laws work as the framework for synchronization of these components

and help all the components to function as a whole. According to article 38 of the sources of International law, Air law is defined as "the body of all rules governing the use of airspace and its benefits for aviation, general public and the nations of the world." The basic philosophy that governs air law is based on the concept of sovereignty of the airspace. This concept is part of the Roman law maxim "Cujus est solum ejus est usque ad coelum", which means that one who owns the land owns the skies. The evolution and the need for air laws started with the rights of balloons to cross borders safely and in the modern times incorporate a gamut of areas that are matters of concern related to an airline. In India the Ministry of Civil Aviation (MOCA) is responsible for policy making and regulations of civil aviation pertaining to the nation. The implementation part of the policies and regulations and standardization of air worthiness as per global standards are administered by Directorate General of Civil Aviation (DGCA).

1.2 DEFINITION OF LAW :

The word Law may be referred to as a set of rules and conduct that are created and established by an authority or custom or through an agreement. Law is also a discipline and a profession and people undertaking the same are called lawyers. According to the Constitution of India (Clause, Article), law may be defined as "an act passed by the legislature and assented to by the President of India or Governor of a State." According to Article 13 of the Constitution of India, law includes any

- Ordinance
- Order
- Bye-Law
- Rule
- Regulation
- Notification
- Custom or Usage within India

The principles and values on which Indian laws are based comprise of the fundamentals of Justice, Continuity, Uniformity and Impartiality. Law changes with the change in the structure of the society and its need. Helmets were not essential to be worn while riding motor cycles decades back, but with the number of vehicles increasing and road accidents becoming a regular feature, the government has made it mandatory to wear helmets while riding a motorcycle not only for the rider but also for the pillion rider. Not following the law leads to penalty being levied from the driver. "Ignorance to law is no excuse."

1.3 HISTORY OF AVIATION LAW :

Aviation law is a set of rules and legislations governing the airspace for benefit of air travel, the people and the countries across the world. There have been a lot of concerted efforts by different countries to codify and unify the protocols of airspace as it is today. Air law works in coordination with civil, criminal, commercial and constitutional laws of the land. The evolution of air law happened with the gradual advancement of technology and cross border movement of people. It is in gradual stages that air laws took an integral shape.

1.4 AVIATION LAW BEFORE 1919 :

It is deliberated that the first air law was passed in Paris in 1784 by a lieutenant in police called Lenoir that prohibited balloon flights over the city of Paris without proper permissions. Similar ordinances were passed in Belgium and in some other councils of France. In 1819, the police head in France passed a regulation for balloons to mandatorily carry parachutes. Any experiments with balloons were prevented during harvest. As there was lot of cross border movement of balloons between France and Germany, and the French government taking serious note of German balloons flying over French territory, duties were imposed by the French government for foreign balloons flying over French territory. The first diplomatic document related to International aviation law was signed in the Franco German war in 1870–1871, where balloons were used in the siege of Paris. The cross border influx led to an International conference between 19 countries of Europe related to the codification of laws on an International level for cross border balloon movement took place in 1910. The conference was known as The Paris International Air Navigation Conference. The conference was not reconvened due to a lot of differences between nations and no formal agreements were signed by either of the countries. The discussions during the conference served as a frame work for development of International air laws later. There was a draft convention of 55 articles and 3 annexes that became the fulcrum for the Paris Convention of 1919 and the Chicago Convention of 1944. The first International peace conference of 1899 at The Hague, an agreement on aerial warfare was drawn. The agreement was for a period of 5 years to forbid discharge of projectiles and explosives from balloons or by new methods that are similar. The declaration was not renewed in the 2nd Hague conference in 1907. Incidents of balloonists landing or crashing over fields were common in USA also and in 1822 a balloonist was fined for landing on someone else's field that drew attention of a huge crowd trespassing in someone else's land. A lot of legal documents were prepared and published in Italy , Germany and France during this period related to balloonists and these documents are considered to be the earliest legal manuals of Air law. In 1898, the first thesis on the subject was published.

In 1903, the Wright brothers invented the motorized machine that could fly and bring a revolution in the field of air travel. With series of aircrafts being made after the inventions, air travel was only concentrated across a few places on Earth. Legal problems related to aircrafts and air travel were simple and could be easily resolved without a lot of technicalities involved. Bilateral agreements were the key source of resolution of aviation issues. The first bilateral agreement was undertaken in 1898 by Austria, Germany and Hungary pertaining to the legal status of cross border flying of military balloons. The bilateral agreement between France and Germany in 1898, resulted in notifications on prohibited zones and difference between civil and military aircrafts. Similar agreements also took place in 1910 between the United States, Mexico and Canada. The International Naval Conference of 1907 discussions led to the approval of aircraft as a legal war machinery. After 1910, eminent jurists in different parts of the world discussed on legal problems related to aviation required International regulations also. The International Law Association formed an aerial law committee in 1912 at Paris and at subsequent session in Madrid in 1913 discussed on air law problems.

1.5 THE PARIS CONVENTION, 1919 :

Aviation saw a surge in the number of aircrafts between 1914 and 1918 for various purposes. An International conference on air laws and regulations was organized by the French government at Paris. This was the first International convention on air navigation. The convention was attended by 38 countries. The main principles of the convention can be enumerated as

Article 1 : The article was about the recognition of every country over exclusive sovereignty of the airspace above its territory.

Article 2 : The article was about the freedom to fly across countries having a contract and the use of public aerodromes of that country.

Article 3 : The article was about the prohibition of airlines to fly over certain areas of a country due to military reasons or public safety.

The convention also discussed aspects like

- Airlines that did not have a contract should not be allowed to enter the airspace of that country.
- Legal aspects pertaining to Registration of aircraft, airworthiness of an aircraft, competency certificate, licensing procedures for pilots were also discussed.

The convention led to the formation of the body International Commission for Aerial Navigation (CINA) and seven subcommittees of the body. The subcommittees worked on the drafting of aspects related to technical points that further worked as the base for technical deliberations of the Chicago Convention.

In the Paris convention, Spain did not receive equal voting rights and called for Ibero American convention of 1926. The convention invited all Latin American countries and the same led to the creation of a body equivalent to CINA. The convention was attended by 7 countries. An International Sanitary Convention was organized at The Hague in 1933. Regulations were signed by member countries to prevent the spread of Small Pox, Yellow fever, cholera, plague and typhoid. A certificate of vaccination had to be presented at certain places of entry at different countries.

The 1st International conference on Private Air law was organized in Paris in 1925. The conference was attended by 44 countries and the prime concern for discussion was the liability of aircrafts in International transport. A committee of experts called CITEJA was formulated and study was conducted further by CITEJA on various aspects like aerial collisions, insurance, renting of aircrafts, ownership of aircrafts etc were undertaken.

❑ Check Your Progress – 1 :

1. The principles on which Indian laws are based carry the fundamentals of
a. Justice b. Impartiality c. Uniformity d. All of the options
2. The first diplomatic document signed related to international aviation law was related to
a. Rockets b. Balloons c. Gliders d. Aircrafts
3. The Paris convention of 1919 was attended by _____ countries
a. 30 b. 35 c. 38 d. 40

1.6 THE WARSAW CONVENTION, 1929 :

The Warsaw convention was convened in 1929 and 33 countries participated. The draft prepared by CITEJA on different regulations and other aspects were deliberated in the convention. The most notable insights of the convention were regarding

- Regulations pertaining to liability of an airline related to multiple areas of operation.
- The issue of tickets for air travel and consignment notes (Waybills) for goods transported by aircrafts.
- The liabilities related to death, injury or damage to baggage and consignment in event of airline accidents.
- Damage to passengers and goods due to delay of an aircraft.
- Ratification of the regulations as proposed by CITEJA were incorporated by various nations in their national laws.

1.7 OTHER INTERNATIONAL CONVENTIONS :

There were several International conventions and conferences that followed the Warsaw convention. The Rome Conference was held in 1933. The conference was on Private air law. Discussions were held on regulatory laws related to ownership of aircraft and unification of rules related to damages caused by aircrafts to third parties on the ground. The 4th International conference was held in Brussels in 1938. A lot of deliberations were undertaken on recommendations of CITEJA in matter related to aircraft insurance. The second draft of aerial collision was not adopted by the conference.

The World War II led to the interruption of the work of CITEJA. Post World War II the commission ceased to exist. A legal committee was formed to look after the private and public air law. This led to the further outcomes on International Civil aviation at Chicago.

1.8 CHICAGO CONVENTION, 1944 :

The Chicago convention was on establishment of rules of airspace, aircraft registration and safety. Adoption of SARPs (International Standards and Recommended Practices) was introduced for International Civil Aviation and 52 countries signed on the agreement. SARPs came into effect in 1947. The establishment of ICAO, a specialized agency of United Nations for coordination and regulation of air travel also was formed. The most notable aspect of the convention was the implementation of 5 Freedoms related to aviation law and sovereignty of airspace that were official and subsequent addition of 4 more Freedoms unofficially. The freedoms were as

- The right to overfly a foreign country without landing.
- The right to refuel or carry maintenance in foreign country.
- The right to fly from one's own country to another.
- The right to fly from a foreign country to one's own.
- The right to fly between two foreign countries during flights which begin or end in one's own country.

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- The right to fly from one foreign country to another while stopping in one's own country.
- The right to fly from one foreign country to another while not offering flights to one's own country.
- The right to fly between 2 or more airports in a foreign country while continuing service to one's own country.
- The right to fly inside a foreign country without continuing service to one's own country.

1.9 MONTREAL CONVENTION, 1999 :

The Montreal convention of 1999 was focussed on modernization of key areas and uniformity of rules. About 132 member countries ratified the proceedings of the convention. The major insights in the Montreal convention were related to

- Documentations related to passengers, baggage and the large duty of parties involved in the same.
- The liability of the carrier and extent of compensation to be paid by the carrier.
- The regulations related to combined carriage.
- The regulations related to carriage by air performed by a party other than the contracting carrier.
- The regulations related to insurance.

1.10 AVIATION LAWS AND THE INDIAN CONTEXT :

Modern civil aviation in India traces back to 18th February 1911 when the first commercial flight took its flight from Allahabad to Naini, a distance of 9.7 Km, on a Humber biplane carrying 6500 pieces of mail. In 1932, the great JRD Tata flew a consignment of mail from Karachi to Juhu airport in Mumbai. In 1953, eight domestic airlines were operating independently. The Air Corporations Act was passed by parliament and the formation of two government entities the Indian Airlines and Air India International took place. In 1972, the International Airport Authority of India (IAAI) was formed and in 1986 the National Airport Authority was created.

The Ministry of Civil Aviation in India is responsible for policy formation and regulations in India related to air travel. The planning, implementation, growth and expansion of air transport, airports, air traffic, passenger carriage and cargo is undertaken by the ministry. The DGCA enforces civil aviation regulation related to air safety, air worthiness and standards as per International air travel. The Airport Authority of India (AAI) creates upgrades, maintains and manages civil aviation infrastructure. The AAI looks into the operations, maintenance, and finance of all government airports as per AAI act 1994. The Airport Economic Regulatory Authority (AERA) works on decision on tariff at airports, passenger service fees, tariff for aeronautical services and monitoring of service quality and reliability. The Bureau of Civil Aviation Security (BCAS) looks into the aviation security standards and following of national and international obligations and treaties to which India is a signatory.

The principal regulations and regulatory laws in India are

- Aircraft act 1934 and Aircraft rules 1937.
The act regulates parameters for manufacture, maintenance, possession, use, sale, import and export of airport. It also regulates air worthiness of aircrafts, conditions of flying and safety, registration of aircrafts and investigations on various aspects.
- CARS (Civil Aviation Requirements) under rule 133 A of DGCA. The act regulates standards before licence, approval and permission.
- Carriage by Air Act 1932 – The act is enacted in purview of the rights and liabilities of domestic and International air carriers as per International conventions.
- Aircraft Security Rules 2011 – The act looks into the aspects related to air safety and security for both aerodromes and aircraft.

1.11 REGULATIONS FOR AVIATION SAFETY AND SECURITY :

Aviation as an industry has taken leaps and bounds in all aspects. With technological advancements and the global presence of airlines across different nations, the member nations are working towards a safe and secure air travel. All member nations of ICAO adhere to SARPs protocols and practices to maintain a safe and sustainable air transport. Majority of the nations of the world follow the Chicago convention norms on global air safety, aircraft accident investigation procedures to prevent further recurrences. The annexes of Chicago convention lay special emphasis on technology specification and up gradation, telecommunication, aeronautical communication, airport security, meteorological services and have standard technical manuals and standard procedures for implementation. International regulations on aviation safety are aimed at

- Reduction of risks and hazards pertaining to aircrafts. The risk reduction of prevention of any accident may require prevention technologically and human interface.
- Reduction of risks and hazards pertaining to all aviation facilities.
- Reduction of risks against any type of sabotage or attack or armed attack or extortion or murder or hijacking.
- Reduction and Prevention of hazard or mishap of aircraft movements across borders in terms of increased leasing and chartering, encompassing all regulations related to ICAO protocols.
- Regulation on Chicago convention protocol for not using weapon against a civil aircraft endangering lives of lot of people is also implemented by member nations and other countries.

❑ Check Your Progress – 2 :

1. The Paris convention led to the formation of a body called
a. CINA b. ANIC c. IATA d. ICAO
2. The Warsaw convention for international aviation was held in
a. 1930 b. 1929 c. 1928 d. 1927

3. The formation of ICAO, a specialized agency of United Nations was convened during
 - a. Rome convention
 - b. Warsaw convention
 - c. Chicago convention
 - d. Montreal convention
4. Civil aviation regulation related to air safety is undertaken by
 - a. IAAI
 - b. AAI
 - c. AERA
 - d. DGCA

1.12 LET US SUM UP :

Aviation law is a set of rules and legislations governing the airspace for the benefit of air travel globally. The coordinated efforts of different countries have led to standardized and uniform air laws as it is today. Before 1919, the need for air law came into existence due to cross border movement of hot air balloons. Multilateral agreements were signed for restricted movement of these balloons into different countries. After the First World War, the aviation industry started growing and there was a need for laws governing movement of aircrafts. The first convention regarding airline laws was undertaken by the French government in 1919 known as the Paris convention and was the first international convention on air navigation attended by 38 countries. The convention led to discussion on various aspects of flying and committees were formed to undertake studies on these aspects so that an international regulation can be framed and implemented. The Warsaw convention of 1929 was attended by 33 countries and various aspects related to the liability of an airline were taken into consideration. The Chicago convention led to the formation of ICAO, a specialized agency of the United Nations for coordination and regulation of air travel. The international standards and recommended practices (SARPs) were also introduced. The 5 freedoms related to aviation law and sovereignty of airspace was also implemented in the convention.

1.13 ANSWERS FOR CHECK YOUR PROGRESS :

❑ Check Your Progress 1 :

- (1 – d) All of the options
- (2 – b) Balloons
- (3 – c) 38 countries

❑ Check Your Progress 2 :

- (1 – a) CINA
- (2 – b) 1929
- (3 – c) Chicago convention
- (4 – d) DGCA

1.14 GLOSSARY :

Contract : Written or spoken agreement that is legally bound.

Convention : An agreement between countries covering particular matters.

Regulation : A rule or directive made and implemented by an authority.

Sovereignty : The authority of a country to govern itself.

SARPs : Standards and recommended practices and technical specifications adopted by council of ICAO in accordance with article 37 of the convention on international civil aviation.

Cargo : Goods carried for transportation through any means of transport.

1.15 ASSIGNMENT :

List how the Warsaw and the Montreal convention have created an impact on civil aviation across the globe. Mention the areas of impact, the adherence of the convention regulations by international airline companies and the nature of regulations that are followed by different countries.

1.16 ACTIVITIES :

1. Find out the regulations required for an airline to start operations from India.
2. If an airline company in India wants to start operations to Singapore, what are the processes involved.

1.17 CASE STUDY :

A passenger's baggage was lost in transit while travelling to New Delhi from Singapore by Singapore airlines. The flight was registered in Singapore.

1. According to the international aviation law how should the passenger claim for his recovery of baggage ?
2. What is the maximum compensation that he shall be entitled for the loss of his baggage ?

1.18 FURTHER READING :

1. Historical Survey of International Airlaw by Peter H Sand, Jorge de Sausa Freitas, Geoffrey W Pratt
2. Fundamentals of Aviation Law by Ray C. Speciale
3. Regulation of Commercial Space by Ruwantissa Abeyratne
4. Foundations of Aviation Law by Michael W Pearson
5. www.wikipedia.org
6. Wichita State University Archives

UNIT STRUCTURE

- 2.0 Learning Objectives
- 2.1 Introduction
- 2.2 Airline Law
- 2.3 The Legislations Related to Airlines in India
 - 2.3.1 The Aircraft Act, 1934 and Aircraft Rules 1937
- 2.4 Regulatory Bodies and Their Functions Related to Air Travel in India
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 - 2.4.2 Bureau of Civil Aviation Security (BCAS)
 - 2.4.3 Airport Economic Regulatory Authority of India (AERA)
 - 2.4.4 Airports Authority of India (AAI)
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2.0 LEARNING OBJECTIVES :

- To list the different legislations governing airlines in India.
- To understand the various regulations of air travel in India.
- To enumerate the role and responsibilities of different governing bodies under the Ministry of Civil Aviation, Government of India.

2.1 INTRODUCTION :

In your previous unit you have been acquainted with the definitions of Airline law and how Airline law came into existence through form of different treaties and conventions. In this unit you will learn about the regulations established in India related to airlines and the laws associated. From the first airmail that was carried between Allahabad and Naini in 1911, the evolution and growth of the airline industry in India has been huge. The participation of India in the Chicago Conference on International Aviation was an epic in the history

of Indian airline industry taking a definite shape and path. Indian government had been a signatory to host of International legal and regulatory conferences and different regulatory laws were implemented in the country, based on the models of these International regulations over a period of time. The unit shall discuss on the laws that are effective in India related to airlines and its different aspects.

2.2 AIRLINE LAW :

Airline Law is a branch and study of law that involves air transport and its operations. You have read in the earlier unit about the evolution of Airline law. The objective of Airline law for any nation is to manage the safety of airlines operating in a country and to ensure harmony for smooth operations of airlines. The subject is complex as every country has a different set of laws and regulations. The advancement of technology, the allied industries associated to an aircraft and the ever changing dynamics of doing aviation business have continuously led to aviation laws in a state of flux. The Chicago convention of 1944 that you have studied in your previous unit became the base for streamlining of International legal and regulatory framework. A lot of conventions post the Chicago convention highlighted different legal aspects pertaining to airline operations and international laws have undergone series of modifications. The International Civil Aviation Organization (ICAO) that was formed after the Chicago convention works closely with member countries for administering the principles of different conventions, implementation of a unified code of rules and regulations across member countries and creation of national laws related to air travel of every country as per principles laid down by the organization. The concept of International law related to airlines is bound by the principles of sovereignty and territory. Countries are bound together by set of implicit and explicit agreements. Countries based on these agreements design a legal system and a regulatory framework for the aviation industry and implement them as the law of the land. In this unit we shall highlight some of the legislations that govern the legal framework of the aviation industry.

2.3 THE LEGISLATIONS RELATED TO AIRLINES IN INDIA :

The first legislation in India related to Airlines was implemented in 1911 and was known as the Indian Airships Act, 1911. The law was formed to regulate certain areas related to airline manufacture, owning an aircraft, use of aircrafts, sale of aircrafts and import or export of aircrafts. As flying operations were not prevalent in India during that period the law though was put in effect had no relevance. Many of the activities as mentioned in the law did not take place in the country. The later part of the 20th century saw a growth and development in the airline activity in the country and the implementation of the Aircraft Act in 1934 and the Aircraft Rules in 1937 came into effect.

2.3.1 The Aircraft Act, 1934 and Aircraft Rules 1937 :

You have read in the previous unit about The Warsaw Convention of 1929, an International convention related to the liability of an aircraft for international destinations in respect to passengers, cargo and baggage. India was a part of the Warsaw convention and signed the International treaty as a member country. The convention was aimed at unification of rules worldwide for member countries related to International Air Travel. The Indian government implemented the Aircraft Act 1934, in lines of the Warsaw convention and adapted the applicability and scope of the law in purview to domestic travel also with some modifications

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and exceptions. The excerpts of the law have undergone a lot of ratifications and amendments with time. The enumerations are presented below as key points to give you a better understanding of the law.

The Aircrafts Act 1934 is applicable for the entire country and to every citizen of the country anywhere in the world. It is also applicable to all the persons who are on board an aircraft that is registered in the country. The Central government has the power to amend or modify the rules as mentioned in the act and key aspects of the same are

- Regulation of Air Transport in India.
- Enforcing the use of the aircraft as per the terms of the licence as issued by authorities.
- Controlling all economic activities pertaining to aviation.
- Managing tariff regulations for passengers and goods.
- Licensing, inspection and implementing regulations at the airports.
- Installation, supervision and maintenance of facilities pertaining to aircraft maintenance, air traffic control, equipment related to air traffic control and other aspects.
- Decision on fees to be levied at various airports in terms of facilities.
- Implementation and management of air routes and marking of zones for prohibition from flying.
- Implementing regulations for articles that can be permissible to carried in an aircraft.
- Implementation of all security measures pertaining to safety and national interest.
- Implementation and inspection of necessary logs at different places for smooth operations.
- Verification of licences and certificates issued outside the country relating to aircrafts, personnel, manufacturing, repair and maintenance of aircrafts.
- Any other activities concerned in terms of aviation regulations.
- Section 5 A of the act pertains to the Director General of Civil Aviation as the designated officer on behalf of the Central government to issue directions under the provisions of the act.
- Section 6 of the act correlates to times of emergency where the Central govt can initiate appropriate measures pertaining to cancel of licences, certificates, maintenance, constructions and implement several other measures pertaining to aircrafts, personnel, maintenance units, airports , flying clubs and other associated bodies.
- Section 7 of the act mentions the power of the Central government to investigate accident of any aircraft in India or over the territory of the country or to any aircraft that is registered in the country.
- Section 8 of the act exercises power of the Central government to detain any aircraft in event of the intended flight would put the lives of people and property in danger.
- The Central government also has the power to implement regulations from time to time to protect public health in event of controlling any contagious disease or epidemic.

The Aircraft Act 1934, was last amended by the Ministry of Civil Aviation in 2020 through an Aircraft Amendment bill. The bill was cleared by the Parliament and the amendments as enumerated are

- The Director General of Civil Aviation (DGCA), The Bureau of Civil Aviation Security (BCAS), and the Aircraft Accident Investigation Bureau (AAIB) shall work as autonomous bodies under the ministry of civil aviation with an independent Director General for each body with definite functions.
- The power of the Central government was defined in the amendment related to registration of aircraft in India, regulation of air transportation services, prohibition of flights over different places in the country, inspection of aircrafts, measures related to unlawful interferences and penalties related to non compliances.
- The armed forces that operate its aircrafts were kept outside the purview of the act.

2.4 REGULATORY BODIES AND THEIR FUNCTIONS RELATED TO AIR TRAVEL IN INDIA :

The Ministry of Civil Aviation in India is the apex body related to aviation in India. The ministry is primarily responsible for

- Planning and implementation of National policies related to aviation in accordance with International Standards and Protocols.
- Development of the Civil Aviation sector in the country.
- Administration and implementation of Aircraft Act 1934 and Aircraft rules 1937 and other legislations related to the Aviation industry within the country.
- Coordinate with member countries and International bodies related to Aviation protocols and implementation for a smooth operation.

The implementation of the functions of the ministry is undertaken through some autonomous bodies that have been assigned definite tasks and report directly to the ministry. You have studied earlier that these bodies comprise of a structured hierarchy headed by a Director General, a person in-charge of the body as appointed by the Central government. You shall read further about these bodies and some of their functions in managing aviation in the country.

☐ Check Your Progress – 1 :

1. The first legislation for airlines implemented in India in 1911 was
 - a. The Aircraft Act.
 - b. The Aircraft Rules Governing Act.
 - c. Indian Airship Act.
 - d. Anti Hijacking Act.
2. The Aircrafts Act 1934, has its fundamentals in
 - a. Warsaw Convention.
 - b. Montreal Convention.
 - c. Hague Convention.
 - d. Rome Convention.

3. Under the Aircrafts Act 1934, the following position can issue orders on behalf of the Central Government for Airlines
 - a. Director of Aviation.
 - b. Director General of Civil Aviation.
 - c. Director General of Airport Authorities.
 - d. None of the above.
4. The Aircrafts Act 1934, was last amended by the Ministry of Civil Aviation in
 - a. 2018
 - b. 2019
 - c. 2020
 - d. 2021

2.4.1 Directorate General of Civil Aviation (DGCA) :

A Directorate is an agency that is created by a ministry and is headed by a Director. It is a subdivision of the department with specific functions. The DGCA is a regulatory body in Civil Aviation of India with its headquarters in Delhi. The directorate primarily deals with the following aspects of aviation

- Safety issues related to Aviation
- Registration of Civil Aircrafts in the country
- Setting standards for air worthiness of aircrafts
- Handling Licensing of pilots, engineers, air traffic controllers and other personnel associated with aviation
- Handles certification of aerodromes within the country
- Issuing of certificates pertaining to operation of different aircrafts
- Implements accident prevention measures as per global standards and is part of investigations of aircraft accidents
- Induces coordination with different countries and their governments, International Air regulating bodies like ICAO for use of Indian airspace
- Works in implementation of aircraft designs in collaboration with manufacturing units performing the role of a consultant
- Undertakes different types of training programs for all stake holders of the aviation industry in the country

2.4.2 Bureau of Civil Aviation Security (BCAS) :

The Bureau of Civil Aviation Security (BCAS) was initially set up as a unit under the DGCA. On recommendation of committee set up by the Ministry of Civil Aviation the unit was re-structured and made into a separate department in 1987. The prime responsibility of the department is to implement highest standards of security as per International standards and protocols for civilian flights operating in India and also internationally. The prime responsibilities of the department are

- Design and implementation of Aviation Security Standards in terms with Annexure 17 of the Chicago Convention of ICAO for airport operators, airlines operators, and their security agencies responsible for implementing AVSEC measures. AVSEC is an ongoing security training program designed by ICAO and conducted through different Aviation Security Training Centres (ASTC) across member countries.

- Conduct Survey of security interventions and needs continuously through effective monitoring.
- Implementation of security rules and regulations at all aviation related areas of operation.
- Ensure that the persons implementing security controls are appropriately trained and possess all competencies required to perform their duties.
- Planning and coordination of Aviation security matters.
- Conduct Surprise/Dummy checks to test professional efficiency and alertness of security staff involved at every point of aviation operations.
- Conduct mock exercises and drills from time to time to measure the efficacy of Contingency Plans and operational preparedness of the various agencies.

2.4.3 Airport Economic Regulatory Authority of India (AERA) :

Airports Economic Regulatory Authority of India (AERA), was established by the Government of India through a notification in 2009 as a statutory body of Government of India. The Parliament of India enacted an Act called "The Airports Economic Regulatory Authority of India Act, 2008. AERA was set up to regulate tariff for the aeronautical services, determine other airport charges for services rendered at major airports and to monitor the performance standards of such airports

The functions of AERA, in respect of major airports, are

- Determination of tariff for aviation related services. The same is done taking into consideration the type of service, the capital expenditure incurred and timely investment in the improvement of airport facilities.
- Working a model of economic viability for an airport for operation.
- Planning and implementing models on implementing efficiency at different airports through optimization of costs.
- Working with the ministry in financial aspects for development of different contracts and agreements and the economic purpose for same. Working towards determination in the amount of the development fees at various airports.
- Determining the amount of the passengers' service fee to be levied under Rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934.
- Monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorized by it in this behalf.
- Perform functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of the Act.
- Today, Airports Economic Regulatory Authority of India plays a vital role in fostering a healthy competition amongst all Major Airports, encouraging investment in airport facilities, protection of reasonable interests of users, operation of efficient, economic and viable airports through regulations of tariff for aero nautical services/activities and also monitors performance standards at major airports.

2.4.4 Airports Authority of India (AAI) :

The Airports Authority of India was constituted in 1995 by merging the International and National Airports Authority to augment the modernization process of airports in India adhering to International standards. The key responsibilities of AAI are

- Design, Development, Operation and Maintenance of international and domestic airports and civil enclaves.
- Control and Management of the Indian airspace extending beyond the territorial limits of the country, as accepted by ICAO.
- Construction, Modification and Management of passenger terminals.
- Development and Management of cargo terminals at international and domestic airports.
- Provision of passenger facilities and information system at the passenger terminals at airports.
- Expansion and strengthening of operation area, viz. Runways, Aprons, Taxiway etc.
- Provision of visual aids.
- Provision of Communication and Navigation aids, viz. ILS, DVOR, DME, Radar etc.

2.5 ANTI HIJACKING ACT 1982 :

There has been a continuous threat of unlawful seizures of aircrafts for many purposes amounting to loss of life and property. India as a part of the Hague convention has passed legislation against the crime and deals with hijacking with utmost severity. With the Beijing Protocol supplementary to the convention in 2010, the Anti Hijacking Act in India was amended in 2010. Section 3 (1) of the act defines hijacking as an offence where a person or a group of persons unlawfully and intentionally seizes or exercises control over an aircraft by force or threat or coercion or by any other means.

The previous act had limitations related to jurisdictions of hijackers as per the Hague convention. In event of a flight landing in India or is made forcefully to land in India by a hijacker who doesn't have Indian nationality, and the event had occurred in the mid sky, involving a foreign aircraft there were lot of limitations related to prosecution and trial of hijackers as per Indian law. Extraditions were the only options as per the protocol, of the hijackers to the country of registration of the aircraft. The processes were complex and often hijackers could not be punished. The new act has incorporated amendments where the government can initiate action against hijackers not only within the limits of the country but outside the limits of its territory if the aircraft is registered in India or the hijacker is of Indian origin or offence is committed against any national of Indian origin.

According to the new law the punishments involving hijacking have been more stringent. The law is now not only applicable to actual hijacking but even in case of a false threat mitigated by someone that may appear genuine. Even a phone call for a hijack that may jeopardize the entire sequence of a flight endangering the safety of people and goods comes under the purview of the act. Assistance, abetment of any form and evasion from the crime in matters related

to hijacking are also dealt under this act. Capital Punishment is awarded to a hijacker in event in event of death of a passenger or a crew member. In case no death happens during the event the life imprisonment is the punishment that is meted out to hijackers.

A person aboard a Mumbai Delhi flight of Jet Airways in 2017 created a mid air hijack scare. The flight force landed in Ahmedabad and the hijacker was arrested. After trials the court punished him with life sentence. This was the first punishment after the amendment of the act.

2.6 THE SUPPRESSION OF UNLAWFUL ACTS AGAINST SAFETY OF CIVIL AVIATION ACT, 1982 :

India being a part of United Nations signed the treaty at Montreal Convention in 1971 related to Suppression of Unlawful acts against the safety of civil aviation. The act was implemented by the Parliament in 1982. The act is applicable to the entire country and the key highlights of the act are

- Offences that occur on board an aircraft in an unlawful way and with an intent leading to the under mentioned shall be dealt very strictly as per the act leading to imprisonment for life or fine or both. Abetment to such crimes are also dealt in a similar manner according to the act.
 - a. acts of violence endangering the safety of passengers and the aircraft
 - b. causing damage to an aircraft making it incapable of flight or which shall be endangered if flown.
 - c. Placing a device or substance that may render an aircraft incapable of flight.
 - d. Placing a device that may endanger the lives of people and the aircraft.
 - e. Communicates information that shall affect the safety of a flight
- Destruction to navigation facilities intentionally endangering a threat to life and property shall be punished with fine and imprisonment for life. Abetment in the offence is equally punishable.
- The jurisdiction of offences are only taken into consideration only when the offence is committed in India. Courts can take cognizance of offences if the offence committed on board an aircraft is registered in India, the aircraft has been leased for a time being to a firm that has its permanent place of business as India, the offender is a citizen of India or such offence is committed on Indian soil.
- The offences are subjected to extradition as per multilateral treaties with different countries unless contracting countries urge the government to initiate legal procedures.
- No suit or legal proceedings can be initiated against the Central government as per provision of this act, when the government acts in good faith to protect the lives and property.

2.7 CIVIL AVIATION REQUIREMENTS :

Civil Aviation requirements are a set of statutory compliances and regulations issued by the Directorate General of Civil Aviation pertaining to critical aspects of aviation. They include

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- Airworthiness procedures, checklists and reports of different aircrafts.
- Criteria related to leasing of aircrafts by Indian operators.
- Minimum requirements for grant of permits for operating scheduled and non scheduled Passenger air transport services
- Documents pertaining to Aerodrome standards and licensing.
- Design Standard Certifications related to aircrafts.
- Air Safety regulations and standards.
- Flight crew standards, Training and Licensing.
- Regulations and Certificates related to Aircraft operations.
- Air space and air navigation service standards.
- Documents and Checklists pertaining to Aviation Environment Protection
- Standards and Procedures related to Safe transport of Dangerous goods by air.

2.8 CARRIAGE BY AIR ACT, 1972 :

India is a signatory for the Warsaw and The Hague convention and follows all the protocols laid down by member countries. The Carriage by Air Act 1972 defines all the rights and liabilities of aircrafts operating in the country both in the domestic and the International sector. The law is applicable to the entire country and involves aircrafts irrespective of their country of registration.

The Act sets the liability of an aircraft that during its course of embarking, flight or disembarking cause damage to goods of a passenger or causes bodily injury or death to a passenger. The act sets the norms of liability for "per kilo" of baggage of the passenger that is damaged.

The Act is bifurcated into First, Second and Third Schedules. The first schedule is according to the provisions of liability as laid down in the Warsaw convention and is limited to International Carriers only. The Second Schedule is according to The Hague protocol, 1955, that was implemented on basis of several amendments done to the Warsaw convention. The Third Schedule was implemented on the provisions of the Montreal convention of 1999. The liabilities of an airline in terms of compensation are mentioned as per the schedules.

India does not have cases involving the Carriage of Air Act 1972. However, there were cases related to airline compensation under the provisions of the Consumer Protection Act 1996. The Consumer forum had taken references of the Carriage of Air Act 1972 in these cases and awarded compensation as per the schedules and their limitations mentioned in the act.

☐ Check Your Progress – 2 :

1. Registration of civil aircrafts in India are undertaken by
 - a. AAI
 - b. DGCA
 - c. AERA
 - d. ARA
2. Implementation of aviation security standards as per International conventions in India is the responsibility of the department known as
 - a. BCAS
 - b. BVAS
 - c. AERA
 - d. DGCA
3. The tariff for all aviation related services are formulated by
 - a. BCAS
 - b. DGCA
 - c. AAI
 - d. AERA

4. The liability of baggage per passenger is decided under
- | | |
|------------------------|-----------------------|
| a. Aircraft Act | b. Anti Hijacking Act |
| c. Carriage by air act | d. None of the above |

2.9 LET US SUM UP :

The first legislation in India related to airlines was implemented in 1911 under the Indian Airships act. India being a part of the Warsaw convention of 1929 introduced the Aircrafts act in 1934 for regulation of air transport within the country. The act was further amended in 2020 and the bodies of the Central government regulating air travel; the Directorate General of Civil Aviation (DGCA), the Bureau of Civil Aviation Security (BCAS), the Aircraft Accident Investigation Bureau (AAIB) were made autonomous bodies with definite functions. The DGCA majorly performs the functions pertaining to licensing of aircrafts, certifications and safety issues of aviation; the BCAS designs and implements aviation security standards as per international norms; the Airport Economic Regulatory Authority (AERA) works on all economic aspects involved for aviation in the country; the Airport Authority of India (AAI) implements design, development, operation and maintenance of international and domestic civil airports within the country. For the safety of air travel within the country and according to the international guidelines, laws like Anti Hijacking act, Suppression of Unlawful act against civil aviation, Carriage by air act are implemented to ensure safety of the airlines, passengers and cargo.

2.10 ANSWERS FOR CHECK YOUR PROGRESS :

❑ **Check Your Progress 1 :**

- (1 – c) Indian Airship Act.
- (2 – a) Warsaw Convention.
- (3 – b) Director General of Civil Aviation
- (4 – c) 2020

❑ **Check Your Progress 2 :**

- (1 – b) DGCA
- (2 – a) BCAS
- (3 – d) AERA
- (4 – c) Carriage by Air Act

2.11 GLOSSARY :

Directorate : The section of government departments performing functions related to particular activity.

License : The formal permission of the government to carry out an activity.

Amendment : A change or addition to enhance a legislation.

Legislation : The process of making laws.

Regulatory : Person or organization controlling an activity or process.

Bureau : Office or department assigned with a particular task.

Tariff : Price for something as fixed by the authorities.

Abetment : The act of helping or encouraging someone to do something wrong or illegal.

2.12 ASSIGNMENT :

- a. List 10 airports in India that are managed by the Airports Authority of India.
- b. List the goods that are prohibited to be carried by a passenger in his hand baggage in India.

2.13 ACTIVITIES :

1. Read articles on how airline laws in India are implemented to different incidents occurring mid air aboard an aircraft.
2. Mention the role of the central agency deployed at airports across India to manage the security.

2.14 CASE STUDY :

A person calls the office of an airline company indicating a bomb explosion that is about to happen in a flight which at that time is mid air, travelling between Ahmedabad and Mumbai. On receiving the message, the pilot makes an emergency landing at Vadodara and all security protocols are undertaken for the bomb threat. The call is traced by different enforcement agencies working on the same and the person is caught.

- a. Will the Anti Hijacking act be applicable to person who was making the threat calls ?
- b. What shall his maximum punishment be for the crime undertaken ?

2.15 FURTHER READING :

1. A guide to India's Aviation Law by Vikrant Pachnanda
2. www.iclg.com
3. www.civilaviation.gov.in

UNIT STRUCTURE

- 3.0 Learning Objectives
- 3.1 Introduction
- 3.2 Evolution of Product Liability
- 3.3 Defects and Product Liability
 - 3.3.1 Manufacturing Defect
 - 3.3.2 Design Defect
 - 3.3.3 Marketing Defect
 - 3.3.4 Warranties
- 3.4 The Concept of Negligence in Manufacturing Defects
 - 3.4.1 Negligence
- 3.5 Strict Liability
- 3.6 Product Liability Laws in India
- 3.7 Limitations and Defences for Product Liability in Aviation
 - 3.7.1 Product Liability Under The Warsaw Convention, 1929
 - 3.7.2 Product Liability Under The Montreal Convention, 1999
- 3.8 Let Us Sum Up
- 3.9 Answers For Check Your Progress
- 3.10 Glossary
- 3.11 Assignment
- 3.12 Activities
- 3.13 Case Study
- 3.14 Further Reading

3.0 LEARNING OBJECTIVES :

- To understand the concept of product liability and its relevance for consumers.
- To enumerate the evolution of the concept of product liability.
- To list the factors that lead to product liability.
- To understand the regulations under various conventions related to product liability in aviation.

3.1 INTRODUCTION :

"Safety First" is the motto of all manufacturers making products in the global market and consumer oriented market today. Error in products leads to damage to the products and often involve a lot of money as compensation. Aviation business involves a complicated machine carrying passengers, goods and

crew. A lot of technicality is involved in the manufacturing of an airline. Airline companies use precision technology and expertise to mitigate any sort of untoward incidents. However, a misfortunate airline accident causes a huge damage and loss not only to passengers, crew members, cargo or the aircraft, but also involves a lot of third parties who may suffer collateral loss. The Product Liability concept in case of loss or injury in aviation is very complicated as the manufacturer involves a lot of component manufacturers. These individual components are assembled by the manufacturers. There is a strict contract between the manufacturers and component suppliers regarding products. In event of a legal case related to product liability in aviation, the complexity of the law is very confusing and with a lot of legal relationships internationally. In this unit you shall understand the concept of liability of a product and the different legal aspects of the Product liability law.

3.2 EVOLUTION OF PRODUCT LIABILITY :

A liability is defined as a financial obligation of company that may lead to economic benefit to other business or companies. Product liability is the liability of manufacturers and sellers of products for harm caused by the products they sell. Historically, the principle of *caveat emptor* (Latin for "buyer beware") meant that sellers had very little legal responsibility for products once they were sold. If a buyer wanted a guarantee regarding the quality and safety of the product, such protections had to be undertaken in a contract between buyer and seller. Unless fraud or misrepresentation was proved by the buyer, liability issues were not initiated against the seller for defective products. This was the concept from 18th century to early 20th century. The goods during that period was locally produced and consumed. The buyer had a chance to directly interact with the manufacturer who was often the seller, inspect the goods and purchase. For example if a buyer wanted to purchase furniture, he would directly go to the manufacturer, inspect the quality of wood and other aspects and do a purchase. Today furniture is made from lot of materials and travel long distances to be sold. Many of the materials would be beyond the purview of the buyer to inspect for quality. Due to the growing industrialization during that period and birth of small industries, governments often followed a policy of non intervention in the free market (policy of *laissez faire*) and these values influenced both public policies and law. The belief was that sellers and manufacturers should be contractually bound for such liability before promising the buyer. Also the factor limiting manufacturer's liability for defective products was the promotion of industrialization, as damage recoveries would have harmed the growth of industries.

From the late 19th century the emergence of bigger companies for product manufacturing brought the buyers and sellers on a platform of parity for bargaining, with an equal footing. In the modern era of specialized large-scale manufacturing and technological sophistication, the law recognizes that consumers are at a disadvantage when it comes to evaluating the condition of goods offered for sale. Manufacturers and retailers are in a better position to inspect and understand the quality and reliability of merchandise in the marketplace. In light of this reality, courts and state legislatures have assigned liability to those engaged in the business of selling or distributing products for the manufacture and sale of defective products. The liability law of 'caveat emptor' moved to 'caveat venditor' (let the seller beware). The manufacturer and the seller had a greater liability and higher damage payable for defect in products.

3.3 DEFECTS AND PRODUCT LIABILITY :

Defect is a shortcoming in any product that may have happened during the manufacturing process leading to injury while using the product. You purchase a mirror and fix it in your room. You realise that by looking at the mirror you appear to be short and overweight. The mirror you purchased has a defect that does not meet your standards. Often defects may lead to severe and fatal accidents. Defects in a product can be categorized under three categories and each category has its own standards for determining liability but they all operate on the same fundamental that if the user is harmed or injured in the course of using the product, there is ground for a legal recourse in liability.

3.3.1 Manufacturing Defect :

This is the most common type of defect as a result of improper manufacture of a product leading to injury. The injured victim can claim damages from the manufacturer of the product. Evidence of a manufacturing defect can be demonstrated by showing that the product was not designed according to specification or is otherwise unreasonably dangerous.

You purchase a knife to cut vegetables but do not notice that there is a crack in the handle. During use the handle splits and you are injured.

3.3.2 Design Defect

Design defect is the second category of defective products. This type of defect happens to an entire line of products. The manufacturer may be producing as per specifications but still there is a defect in the design that makes the product unreasonably safe and an alternative design would have reduced the risk to the consumer.

You purchase a knife to cut vegetables. You notice that whenever you try to cut vegetables faster, the knife slips due to its design, making it potentially vulnerable for accident.

3.3.3 Marketing Defect :

Marketing defect is the failure to warn consumers of the potential risks posed by the product. This form of product liability is actionable when the risk could have been avoided by providing adequate instructions or warnings regarding the use of the products.

You purchase an electrical knife but the manufacturer neither has put

3.3.4 Warranties :

Breach of any warranty related to products is subject to product liability being claimed. A warranty is an expression for goods offered by a seller for sale, indicating that the goods have certain qualities. The non compliance of the representation of the seller for the goods can lead to legal recourse being undertaken by the purchaser for breach of warranty. Note that a warranty for goods does not require that the seller explicitly make claims about the nature of the products. Under certain conditions, warranties for the quality of the goods are implied by the fact of the goods being offered for sale or by other attendant circumstances.

❑ **Check Your Progress – 1 :**

1. The principle of "Caveat emptor" in Latin means
 - a. Let the buyer beware
 - b. the buyer is the king
 - c. let the buyer pay
 - d. None of the above
2. Shortcoming in any product is known as
 - a. Crack
 - b. Negligence
 - c. Defect
 - d. Accident
3. When a particular defect is found in entire line of products it is known as
 - a. Manufacturing defect
 - b. Design defect
 - c. Product defect
 - d. All of the above
4. When the seller indicates certain qualities of a product during sale, it is known as
 - a. Warranty
 - b. Guarantee
 - c. Liability
 - d. Defect

3.4 THE CONCEPT OF NEGLIGENCE IN MANUFACTURING DEFECTS :

Aviation manufacturing as an industry is intricately woven with various stake holders. The manufacturer is closely associated with a network of dealers, distributors of products, component part manufacturers and others. The network is bound by strict regulations of contract and in event of an accident they are liable jointly or individually. Product liability law in all countries have developed to provide a greater advantage to the claimant. In a Product liability case in 1916 at USA, the Mc Pherson vs Buick Motor company case, Mr. Mc Pherson purchased a car from a retailer. The car had a faulty wheel which led to an accident and Mr. Mc Pherson was injured. Mc Pherson initiated a case against the manufacturer of the car for the faulty wheel that led to the accident though he purchased the car from a retailer. The case was a landmark judgement for product liability claims as Mc Pherson did not have a privity of contract directly with the manufacturer but the court ruled in favour of the complainant that is Mr. Mc Pherson, stating that a complainant can file a case against a manufacturer though there may be no direct contract between the complainant and the manufacturer, because, the characteristic of the defective product that led to an accident posed inherent danger to users and the manufacturer should have foreseen the inherent danger that the product posed. The manufacturer was liable to all the injuries and damages. The theory of privity of contract was quashed by the court.

In event of a law suit pertaining to product liability for a manufacturing defect, the person filing the case must prove that a defectively manufactured product caused harm. However, in most cases, the person filing the case need not prove that the defect arose due to a lack of care or poor quality–control in the manufacturing process.

In modern times for cases arising out of manufacturing defects, sellers are said to be strictly liable for the products they sell and so are liable regardless of whether the victim can demonstrate fault on the part of the defendant. The strict liability standard stands in contrast to the alternative negligence standard, which remains the controlling test in other areas of product liability law.

3.4.1 Negligence :

In its earlier form, products liability was an extension of the negligence principle in torts. Negligence as a Tort has evolved from English law. In tort law, people have a duty to exercise due care when their actions can foreseeably lead to harming others. If they breach this duty, they can be held liable for the damages caused by their actions. Tort in common law jurisdiction is a civil wrong leading to injury or harm or loss to a person, who can claim liability against the person committing the tortious act. Proving negligence is required in most claims leading to liability. In order to invoke the liability in negligence on fault of the manufacturer, the claimant must prove

- The manufacturer has a duty of care towards the claimant.
- The duty was breached by the manufacturer.
- The amount of damages suffered by the claimant due to the negligence of the manufacturer.
- The actual and the proximate cause of the complainant's injury.

In 1932, a United Kingdom court gave a landmark judgement on a product liability case in *Donoghue vs Stevenson*. The case is also referred to as *Snail in the bottle case*. Mrs May Donoghue was drinking ginger beer in a cafe when she noticed a decomposed snail in her bottle. She fell ill and filed a legal case against the manufacturer of the ginger beer Mr. Stevenson. The court held that the manufacturer breached the duty to care for her as it was foreseeable that the failure to ensure safety by the manufacturer in the products would lead harm consumers.

3.5 STRICT LIABILITY :

Modern law is more favourable towards the consumer. In a claim for negligence it is often difficult for the consumer to prove negligence against the manufacturer. In aviation industry it is more complicated to prove the same because of the complexity of technology used in the manufacture of aircrafts. Today, with regard to manufacturing defects, most jurisdictions have rejected the negligence standard in favour of strict liability. The strict liability rules have shifted the burden of proof from the consumer to the manufacturer. The manufacturer is liable for any injury or loss or damage to the consumer whether or not the manufacturer or the retailer was negligent. Strict liability has been adopted by most of the countries across the world.

In a landmark products liability case, *Greenman v. Yuba Power Products*, the consumer was injured while using a power tool. The lawyers of the manufacturer argued that the injury was a result of defective screws in the power tool and there was no clear evidence of negligence on the part of the manufacturer. The court still held the manufacturer liable on the grounds that the product was placed on the market with the knowledge that it would be used without further inspection. The court interpreted this as an implied guarantee that the product was not defective, and so found the manufacturer liable even without evidence of negligence. This rule has been generalized on the principle that offering goods for sale carries with it an implicit representation regarding the condition of the product. So, a party that sells a product with a manufacturing defect which makes it dangerous is liable for damages, even if all possible care was exercised in manufacturing the product.

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With production of goods becoming more technologically complicated and specialized, it was difficult on part of the consumers to prove negligence of manufacturers. This was a reason for a shift from the negligence standard to strict liability. The courts also believed that modern manufacturers are in a better position to inspect the quality of goods offered for sale than are ordinary customers. The strict liability was imposed to ensure that manufacturers take corrective steps to ensure that their products are safe for consumers to use.

In contrast to negligence cases in a strict liability case the claimant needs to prove

- The presence of defect in a product.
- The defect was present when the product had been offered for sale and had left the premises of the manufacturer.
- The defect in the product has caused harm or injury or loss to the claimant.

Note that strict liability does not apply to all cases of defective products. It does not apply to people who only occasionally may offer something for sale. To hold a defendant strictly liable, the seller must be one who is engaged in the business of selling or distributing this type of product. However, strict liability does attach to all parties in the chain of commerce involved in bringing the product to market. This includes product retailers who offer the product for sale even if they had no role in manufacturing the product and had no ability to inspect it prior to sale. Second, the product must reach the customer without substantial changes from the condition in which it was sold. Modifications after sale can preclude liability for injuries.

It has to be noted that the rule of strict liability is applicable only in cases of manufacturing defects. For products liability law related to design defects and failure to warn, requires a claimant to prove that unreasonable act of the manufacturer under the circumstances led to an injury or loss for the claimant.

■ Used Goods :

Used goods purchase is an area where the probability of a defect is high. The standard for used goods sale is not defined in many countries of the world. Product liability cases arising out of used goods can be treated under negligence or strict liability on a case to case basis depending on the severity of the loss or injury and the type of product been sold as a used good.

3.6 PRODUCT LIABILITY LAWS IN INDIA :

In India product liability law regulates the liability of the manufacturers, wholesalers, distributors and vendors for injury to a person using a product. There are multiple laws in India that deals with product liability and are constantly evolving for protecting the consumer. The following acts in India undertake governance of product liability

- The Consumer Protection Act, 1986.
- The Sales of Goods Act, 1930.
- The Monopolies and Restrictive Trade Practices Act, 1969.
- The Law of Torts.
- Special Statutes pertaining to specific goods.

The product liability law in India apart from civil liability also involves criminal liability in event of manufacturers, wholesalers or retailers not adhering to the same. The acts under which cases of criminal liability for products can be initiated are

- The Food Adulteration Act, 1954.
- The Food Safety and Standards Act, 2006.
- The Drug and Cosmetics Act, 1940.
- The Standards of Weights and Measures Act, 1956.
- The Indian Standards Institution Act, 1952.
- The Bureau of Indian Standards Act, 1986.
- The Agricultural Produce Grading Act, 1937.

3.7 LIMITATIONS AND DEFENCES FOR PRODUCT LIABILITY IN AVIATION :

The Greenman vs Yuba Power Products case set a precedent of reawakening of enterprise liability that was nonexistent across the globe. The decision of this case was widely accepted by the consumers. In context of the case, the American congress implemented several statutes related to product safety and vehicle safety. The strict liability regime and the increased number of cases pertaining to product liability in aviation became a threat to the airline manufacturing industry and especially for small manufacturers associated with airline manufacturing. With downfall in manufacturing sector, the General Aviation Revitalization act was introduced in the United States in 1994. Similar acts that limit the liability time frame of manufacturers were also introduced by the European Council. There is a no limit liability of the manufacturer under these acts for 18 years including replacement of parts from the date of delivery of the aircraft. The European Council puts the liability limit for the manufacturer at 10 years. The time limits are for strict liability claims; however, the same can be undertaken under different legal regulations.

3.7.1 Product Liability Under The Warsaw Convention, 1929 :

The Warsaw convention and its purpose of unification of rules related to International carriage by air were studied by you in Unit 1 of this block. The Warsaw convention for the first time incorporates the liability factor of airlines in event of an accident. Though the convention draws certain regulations for its member countries related to air liability it is limited only to passengers and cargo. The convention had been drawn during a time when air travel was in a nascent stage and the airline industry was growing. The Warsaw convention requires airline carriers to issue tickets to passengers and baggage tickets. The liability under the Warsaw convention is measured in Gold Francs and limits the airline carrier liability for death or bodily injury to a passenger at 2,50,000 Francs which is around 8300 USD. For passengers who want a higher claim to be settled, wilful misconduct on the part of the airlines has to be proved by the passenger. The limit for checked luggage and cargo under the convention was fixed at 250 francs per kilogram of Checked in luggage or cargo which was around 0.97 USD per pound. The liability for hand luggage of passengers is up to 5000 francs. The Warsaw convention was signed by 152 countries. If the airline carrier fails to provide proper documentation there is no limit of liability. Liability of airline reduces

when the airline took all the measures to avoid damage or it was impossible to do so.

The Hague protocol of 1955, doubled the liability claim to 16,600 USD for passenger death or bodily injury. The Montreal agreement of 1966 increased the limits of liability to 75,000 USD for passenger death or bodily injury.

3.7.2 Product Liability Under The Montreal Convention, 1999 :

The Montreal Convention reworked the liability for passengers and cargo. The value of the liability was expressed in Special Drawing Right (SDR) instead of francs. SDR is an artificial currency set by the International Monetary Fund (IMF). The value of the SDR is based on the value of 5 currencies of different countries. The currencies on which the value of SDR is deciphered are United States Dollar, Euro, Chinese currency, Japanese Yen and British Pound Sterling. The value of one SDR in Indian currency is equivalent to approximately Rs 132. The limits as decided by the convention are monitored by the ICAO and after every 5 years; the amounts are revised based on the rate of inflation. Under the Montreal convention the amounts as decided under different articles are

- Under Article 21, that talks about strict liability for death or bodily injury to passengers the liability drawn was 1,00,000 SDR per passenger. The same was amended in 2010 to 1,13,100 SDR and as of 2019 it is 1,28,821 SDR per passenger.
- Under Article 22, that states the delay in carriage of passengers, the liability of the airline was set at maximum of 4150 SDR per passenger which was revised in 2019 to 5346 SDR per passenger.
- Under Article 22, paragraph 2, that states the destruction, loss, damage or delay of baggage of passengers the original liability was set at 1000 SDR per passenger which was revised to 1288 per passenger in 2019.
- Under Article 22, paragraph 3, relating to destruction, loss, damage or delay of cargo the original limit of liability was fixed at 17 SDR per kilogram and was revised to 22 SDR per kilogram of cargo.

☐ Check Your Progress – 2 :

1. Civil wrong leading to injury or harm or loss to a person and liability can be claimed is called
 - a. Prejudice b. Tort c. Negligence d. Wrongful act
2. Strict liability is only applicable to cases pertaining to
 - a. Manufacturing defects b. Design defects
 - c. Marketing defects d. All of the above
3. According to the Warsaw convention, liability paid for death in an air accident is approximately
 - a. 8000 USD b. 7000 USD c. 8500 USD d. 8300 USD
4. The Montreal convention fixes the amount for loss of baggage at _____ per kilogram.
 - a. 20 SDR b. 21 SDR c. 22 SDR d. 23 SDR

3.8 LET US SUM UP :

An accident may occur while using a product if it is not manufactured properly. In the early years the onus to check any product before buying was on the buyer. With time, products started gaining complexity and started travelling long distances. It was difficult for the buyer to inspect and purchase the product always. The legal process today has shifted the responsibility of checking of goods to the manufacturer and the retailers as they are in a better position to inspect and understand the quality and the reliability of the product. Defects are shortcomings in a product and may lead to accidents during its use. A defect in a product can be the result of an improper manufacturing or faulty design or the failure to warn consumers of potential risks posed by the product. In product liability cases, the principle of negligence is often used for claims, where to prove the liability and fault of the manufacturer, the claimant has to prove certain aspects related to breach of care of the manufacturer. The modern law is favourable for customers and follows the principle of strict liability for defects. The strict liability has been enforced to ensure manufacturers take corrective steps, to ensure that their products are safe for use by the customer. Airline liability also follows the principle of strict liability and there are limits and parameters drawn under the Warsaw convention, the Montreal convention and the laws of the land to handle liability issues.

3.9 ANSWERS FOR CHECK YOUR PROGRESS :

❑ **Check Your Progress 1 :**

- (1 – a) Let the buyer beware
- (2 – c) Defect
- (3 – b) Design Defect
- (4 – a) Warranty

❑ **Check Your Progress 2 :**

- (1 – b) Tort
- (2 – a) Manufacturing defects
- (3 – d) 8300 USD
- (4 – c) 22 SDR

3.10 GLOSSARY :

Liability : Being legally responsible for something.

Defect : A short coming in a product.

Warranty : A written guarantee issued to the purchaser of an article by the manufacturer promising to repair or replace it if necessary within a specific period of time.

ICAO : International Civil Aviation Organization, a specialized agency of the United Nations.

3.11 ASSIGNMENT :

You have purchased a machine from a retailer in India for mixing food ingredients. When you open the box, you find that the instruction manual for

using the machine is missing. You decide to try it out and the sudden jerk of the machine injures your wrist and the injury requires medical attention.

1. Can you claim liability against the manufacturer ?
2. List the ways in which you can claim liability against the manufacturer ?

3.12 ACTIVITIES :

1. List some cases of airline accidents involving liability been paid to passengers and for goods.
2. Find out the amount of liability paid for the above cases.
3. List any instance where higher claim for liability undertaken by the claimant than the paid amount.

3.13 CASE STUDY :

A passenger purchased a headphone while travelling in a flight as a part of sales promotion scheme. He used the product to listen to music while in flight. Just before landing he tried to check on the blue tooth mode of the headphone and found to his dismay that the product was not pairing with his device. The product had a manufacturing defect and did not have any warranty against damages. As the flight landed he spoke to the crew regarding the same but the crew directed the passenger to speak to the ground staff at the airport terminal for resolution. At the terminal building, the staff was not ready to accept the product as the sale had been undertaken in flight and nothing related to third party products sold inside the aircraft were dealt at the airport terminals. After a lot of argument, an email id was provided by the ground staff to escalate the issue.

1. What should the passenger do to get his product replaced ?
2. Can he claim for a liability and compensation if the airline company does not replace him the product ?

3.14 FURTHER READING :

1. Aviation Product Liability by Committee on Science and Technology
2. Aircraft Manufacturer's Product Liability by Paul B. Larsen, Joseph C. Sweeney and John E. Gillick
3. Civil Aviation Standards and Liabilities by Tim Unmack

BLOCK SUMMARY :

The units in the block provide an insight into how general laws related to aviation evolved. The process for unification of airline laws was not an easy task. Different countries across the globe have different interpretations and perspectives of laws implemented on the land. An aircraft is a mode of transportation that brings countries together and reduces travel time. The block acquaints you with what and how laws are implemented across the border in a foreign land or high up in the sky. The blocks provide indicators on how different International treaties and conventions have led to a common agreement between countries to implement standards that act as guideline and reference to various aspects of flying globally. The block also makes you familiar with several international agencies that act as watchdogs between countries and help in resolving issues between countries related to incidents associated with international air travel. The block also provides you detailed knowledge on the laws that are implemented in India related to air travel on lines of different International treaties and information about the role of the regulatory agencies present in the country that implement the laws. Airline being technologically advanced and very expensive machinery is susceptible to advance level risks and their associated hazards. Hazards are multifarious and may involve huge losses in terms of loss of lives and property. The block provides knowledge about liability and different aspects of liability and the role of airlines in the liability process.

BLOCK ASSIGNMENT :

1. What are defects ? List and explain types of defects with relevant examples ?
2. How does negligence play a vital role in liability? Elucidate on the concept of strict liability ?
3. Describe Product Liability clauses for the aviation industry according to different international treaties ?
4. Write in detail about the evolution of airline law taking into accounts the different international treaties and conventions ?
5. Explain the role of different regulatory agencies in India in implementation of laws for the aviation industry ?

HOSPITALITY LAW



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ISBN 978-93-91071-74-5

Edition : 2020

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ROLE OF SELF INSTRUCTIONAL MATERIAL IN DISTANCE LEARNING

The need to plan effective instruction is imperative for a successful distance teaching repertoire. This is due to the fact that the instructional designer, the tutor, the author (s) and the student are often separated by distance and may never meet in person. This is an increasingly common scenario in distance education instruction. As much as possible, teaching by distance should stimulate the student's intellectual involvement and contain all the necessary learning instructional activities that are capable of guiding the student through the course objectives. Therefore, the course / self-instructional material are completely equipped with everything that the syllabus prescribes.

To ensure effective instruction, a number of instructional design ideas are used and these help students to acquire knowledge, intellectual skills, motor skills and necessary attitudinal changes. In this respect, students' assessment and course evaluation are incorporated in the text.

The nature of instructional activities used in distance education self- instructional materials depends on the domain of learning that they reinforce in the text, that is, the cognitive, psychomotor and affective. These are further interpreted in the acquisition of knowledge, intellectual skills and motor skills. Students may be encouraged to gain, apply and communicate (orally or in writing) the knowledge acquired. Intellectual- skills objectives may be met by designing instructions that make use of students' prior knowledge and experiences in the discourse as the foundation on which newly acquired knowledge is built.

The provision of exercises in the form of assignments, projects and tutorial feedback is necessary. Instructional activities that teach motor skills need to be graphically demonstrated and the correct practices provided during tutorials. Instructional activities for inculcating change in attitude and behavior should create interest and demonstrate need and benefits gained by adopting the required change. Information on the adoption and procedures for practice of new attitudes may then be introduced.

Teaching and learning at a distance eliminates interactive communication cues, such as pauses, intonation and gestures, associated with the face-to-face method of teaching. This is

particularly so with the exclusive use of print media. Instructional activities built into the instructional repertoire provide this missing interaction between the student and the teacher. Therefore, the use of instructional activities to affect better distance teaching is not optional, but mandatory.

Our team of successful writers and authors has tried to reduce this.

Divide and to bring this Self Instructional Material as the best teaching and communication tool. Instructional activities are varied in order to assess the different facets of the domains of learning.

Distance education teaching repertoire involves extensive use of self- instructional materials, be they print or otherwise. These materials are designed to achieve certain pre-determined learning outcomes, namely goals and objectives that are contained in an instructional plan. Since the teaching process is affected over a distance, there is need to ensure that students actively participate in their learning by performing specific tasks that help them to understand the relevant concepts. Therefore, a set of exercises is built into the teaching repertoire in order to link what students and tutors do in the framework of the course outline. These could be in the form of students' assignments, a research project or a science practical exercise. Examples of instructional activities in distance education are too numerous to list. Instructional activities, when used in this context, help to motivate students, guide and measure students' performance (continuous assessment)

PREFACE

We have put in lots of hard work to make this book as user-friendly as possible, but we have not sacrificed quality. Experts were involved in preparing the materials. However, concepts are explained in easy language for you. We have included many tables and examples for easy understanding.

We sincerely hope this book will help you in every way you expect. All the best for your studies from our team!

HOSPITALITY LAW

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Hospitality Law

BLOCK 2 : FOOD REGULATION LAWS

UNIT 1 HYGIENE AND FOOD LEGISLATION

UNIT 2 FOOD SAFETY AND STANDARDS ACT, 2006

UNIT 3 LEGAL REQUIREMENTS FOR AIRLINE CATERING IN
INDIA

FOOD REGULATION LAWS

Block Introduction :

One of the most regulated and structured food services are those that supply food for the aviation industry. Food determines the quality of service and rating of an airline. It is one of the key indicators of performance and competition for an airline. Providing safe and hygienic food at an altitude is the priority of airline companies across the globe. Catering operations for airlines are complex as a lot of stake holders are involved in the entire supply chain process. The primary objective is to keep the food fresh and hygienic through this entire process. Catering companies implement various food safety management programs that are designed to implement critical limits in the entire food supply process and adhere to strict Standard Operating Procedures. Airline catering companies in India follow the strict rules as implemented under the Food Safety and Standards Act. The act is a comprehensive guideline for all food business operators and food products that regulate manufacture, storage, distribution and packaging of food based on scientific guidelines and international benchmark and standards. The block emphasizes on the requirement of hygiene and food legislations as required by airline catering establishments. It also gives you an insight into the different food safety management programs that are followed globally and food safety standards and laws of some leading countries across the globe. The block also makes you aware about the different aspects of the Food Safety and Standards act and the regulations and norms required for establishing an airline catering unit. Overall the block gives you a perspective of food and its importance in airline.

Block Objectives :

- To list the importance of Personal hygiene in food preparation and understand the importance of the concept of food safety management system in airline catering.
- To enumerate some of the global food safety management systems and legal norms associated with food of some countries.
- To enumerate the scope, features and implementation of the Food Safety and Standards Act in India.
- To list and understand the regulations required to set up an airline catering establishment in India.

Block Structure :

Unit 1 : Hygiene and Food Legislation

Unit 2 : Food Safety and Standards Act, 2006

Unit 3 : Legal Requirements for Airline Catering in India

Hygiene and Food Legislation

UNIT STRUCTURE

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1.0 LEARNING OBJECTIVES :

- To list the importance of Personal hygiene in food preparation.
- To understand the different aspects related to kitchen hygiene.

- To understand the concept of food safety management system and list some of the food safety management systems followed globally.
- To enumerate food safety regulations of some leading countries of the world.

1.1 INTRODUCTION :

Food is a major contributor to the experience of a passenger at an altitude of 35000 feet from the ground. The hot food served to a passenger undergoes a complex set of processes and involves a lot manpower and technology to be delivered fresh, wholesome and nutritious to the passenger. With an increase of flights to different destinations around the globe and different models of business being adopted by airline operators, service of food suiting the taste of the customer is a challenging task. Airlines work with culinary design teams and Food Service Suppliers to provide an efficient supply of quality food. In the entire process different legislations across the globe are involved to ensure a robust system that keeps food safe at all times. In this unit you shall learn about regulations and ways to keep food safe for passengers being served in airlines.

1.2 HYGIENE AND FOOD :

Food in an airline is prepared by different catering companies who have their base kitchens located at different destinations across the globe. There are a number of processes involved in the preparation process of food at these units before it is delivered to the passenger in the aircraft. Hazards to food are a challenging phenomenon at every step of the process and poor hygiene may lead to food getting contaminated leading to health issues for people consuming the same. Hygiene in the food preparation area is a set of practices that lead to food being safe. These practices encompass personnel working in a kitchen, equipment hygiene and food hygiene. In this unit you shall learn about the Hygiene practices that need to be followed at the preparation area of a catering establishment that supplies food to different airlines across the globe.

1.2.1 Personal Hygiene :

Chefs handle food by hand and personal hygiene is of paramount importance to Chefs and food handlers. There are germs and bacteria that are present in and on our body and clothing and may be transferred to food once they come in contact. Personal hygiene prevents or eliminates the risk of transmission and makes food safe. A food handler is trained to follow norms related to personal hygiene and majority of food catering units enforce strict norms and checks for food handlers to avoid any contamination. There are certain aspects that have been universally approved and followed for food handlers working in catering establishments related to personal cleanliness, clothing and various other norms. To enumerate, the principles are as

- Bathing is very important for food handlers otherwise germs from the body can be transferred to clothing and onto food. Every catering unit have designated areas and provisions for their food handling staff to bath. Many catering establishments have specific rules related to the number of times a food handler should take bath.
- Hands play the most important role in the food industry. They are in direct contact with food. Hands should be thoroughly washed and dried before starting of work, after handling certain food items, after touching parts of

body like face or nose, after a sneeze, after visiting a restroom and whenever the food handler enters the area from outside. Normally anti bacterial soaps are used to wash hands properly. Catering units have hand wash stations in every section and post rules and guidelines for washing hands. A lot of sections in the flight catering units do not permit food handlers to touch food by hand. Disposable aids are used in the entire food handling process. Flight Catering units install sanitizing units prior to entry into any food zone and allows restrictive policy of movement of people in different zones. Wearing of rings, watches, jewellery are prohibited inside food preparation areas as they might transfer pathogens to food directly. Catering units have different policies for staff with cuts in hands and injuries to handle food. Staff members who are sick and especially suffering from stomach related diseases are prevented from handling food in airline catering units.

- Fingernails are a critical point of check for food handlers and checking of fingernails being trimmed are undertaken in daily briefings. Nails may have dirt that may transfer bacteria directly into food. Use of nail varnishes and polishes are also forbidden for food handlers in a flight catering unit.
- Hair is a critical part of the body that may affect food. Often hair falls in food leading to complaints and legal issues in airline food. Catering establishment require food handlers to keep short hair and a policy of covering it always with either a chef cap or a disposable hair cap. Women food handlers are encouraged to wear a hair net and a cap. Touching of hair is forbidden in an airline catering unit under any circumstance.
- Nose is a critical part of the human body that may transmit harmful germs in the food. Touching of nose is not allowed in a food catering unit and if a handler does so, washing of hands and cleaning them is essential. A lot of flight catering units use masks for their food handlers in certain areas so as to prevent any contamination.
- Mouth too is a part of the human body that can transmit a lot of germs. Tasting of food from cooking utensils by hand is forbidden in food catering units. Coughing over foods and working areas should be avoided by food handlers and handkerchiefs should be used for the same. Coughing results in germs travelling long distances.
- Though the feet are covered by shoes but often standing for long hours wearing shoes lead to fungal infections. Food handlers should essentially manage foot hygiene regularly to prevent any adverse effect on the body.
- The use of cosmetics is discouraged by organizations for food handlers as they may contain chemicals that may be detrimental for food.
- Smoking is not permitted for food handlers during a shift at many catering establishments. In event of a food handler smokes, there are designated areas and the food handler compulsorily has to sanitize their hand and mouth before entering the food handling area.
- Spitting is strictly discouraged and not allowed in food preparation areas.
- Wearing clean clothing is very essential for food handlers. Clothes enable germs to get transmitted to food. Every catering establishment handling food has definite policies for uniforms. Apart from uniforms, dusters are commonly used by food handlers and the same should be segregated according to purpose and should always be clean.

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- Kitchen clothing is of importance for people working in the kitchen. Clothes that do not adhere to certain parameters can lead to manifestation of many food related challenges. Kitchen clothing should be protective, easily washable, of a suitable colour, light in weight, comfortable to wear, strong and absorbent.

1.2.2 Kitchen Hygiene :

A clean kitchen and a good working environment in the kitchen are better place to work for food handlers. The level of delivery increases in a clean atmosphere and there is always a sense of pride and belongingness for food handlers. Airline food catering units pay a considerable amount of supervision to keep their areas clean at all times. Food catering units for airlines are designed in a way to maintain high standards of cleanliness, maintenance, easy operational flow, designated areas for different processes, minimization of backtracking and crossovers, customized equipments. Personnel are trained and deployed in areas to undertake a strict cleaning schedule as per standard operating procedures of the establishment. Some basic guidelines for kitchen hygiene include

- Sanitization procedures for floors, tables and equipments after every use as per Standard operating procedure of the establishment.
- Walls and other surfaces that do not have direct contact with food shall be always clean and sanitized.
- All equipments used in the production process need to be clean dried and stored at respective places.
- Any broken or damaged goods shall be removed and area cleaned to prevent any hazard.
- Garbage bins to be bagged as per operational protocols and emptied on timely basis as per standard operating procedures.
- Safety and usage guidelines for machines shall be displayed and proper training for handling machines shall be imparted to food handlers.
- Schedule for equipment cleaning must be enforced as per standard operating procedures.
- Maintenance schedules of machines shall be undertaken as per contracts and daily check of equipments shall be undertaken.
- Different Materials shall be cleaned as per guidelines and standard operating procedures.
- Ceilings, doors, windows, lifts, high loaders, cold chain vehicles shall be cleaned daily according to standard operating procedures of the establishment.
- Pest control and fumigation of areas shall be undertaking according to standard operating procedures of the establishment.
- Lighting, ventilation and plumbing equipments shall be checked daily.

1.2.3 Food Hygiene :

Food Hygiene is the most critical part of the operations. Food is sourced from different places in a catering establishment according to specifications, received and stored. The stored food moves from the storage area and is processed in the kitchen before being packed, assembled, stored and transported for consumption by a passenger or a crew member. The entire supply chain involves

different categories of food being stored and processed at different temperatures. Food safety is the most critical aspect of food hygiene and food safety works on a complete management system that is critical at every stage. You shall study about different Food Safety Management Systems in this unit that are critical in managing the operations of Airline Catering establishments. The topic of food hygiene shall be dealt in a detailed perspective as a critical element to airline catering.

1.3 FOOD POISONING :

In 1975, a Japan Airlines Boeing flying from Japan to Paris via Copenhagen with 344 passengers had a severe experience of food poisoning. A total of 175 passengers complained of nausea and vomiting after consuming breakfast and 144 passengers had to be hospitalized at Copenhagen. Investigations revealed that the Ham omelette served in the breakfast was infected with staphylococci. Further investigations revealed that one of the chefs out of three, who had prepared the omelettes, had a lesion in two fingers infected by staphylococci that got transmitted to the food. The chef had bandaged the lesions but had never reported of the same to Manager.

The incident had unfortunate consequences and similar incidents of food poisoning have often been reported. In 1992, in a flight from Peru to Los Angeles, 76 passengers fell ill with symptoms of Cholera, traced to shrimp served on board the flight. Food Poisoning is an illness that may occur within 1 to 36 hours of eating food affected by pathogens leading to multiple symptoms and levels of criticality. Food Poisoning happens when harmful food is eaten that is contaminated by chemicals that might have entered the food during growth of the food item or in the preparation or cooking phase of the food item.

Contamination of food can also happen through germs (harmful bacteria, moulds, fungus) that may have affected the food during the handling, storage or preparation process. There are specific temperature limits for handling food as the multiplication of pathogens in food has an ideal temperature between 10 degree Celsius and 63 degree Celsius. Food Safety Management systems work on critical control points at all levels of food handling, to prevent any type of spoilage and infestation. Good Manufacturing Practices are ensured in all flight catering establishments to prevent any untoward incident of food infestation leading to poisoning.

1.4 FOOD SAFETY MANAGEMENT SYSTEMS :

Food Industry was un-regulated and practices followed did not adhere to any safety mechanism. After the Industrial revolution, the concept of food safety became important. The change began with NASA's space food research program initiated in 1960. A qualitative approach in a food safety program was introduced for the first time with a scientific base and principles. The food safety program was known as Hazard Analysis Critical Control Point (HACCP) and the program is now adopted by all food production units and catering establishments to prevent hazards that may make food unsafe. The HACCP led to implementation of different certification systems associated with food. Globalization has led to food being transported world over. New challenges have emerged in the process and systems are continuously designed for the food industry's ability to control risk. Emerging risks of allergens, food sensitivities, fraud, antibiotics, pesticide

residues in food products along with traceability and recall process are areas that food safety management systems are continually working upon.

The aviation industry adheres to global standards of food safety and standards are the new norm for doing food business. The airline catering industry involves multiple stake holders from different countries. Each country has their own food safety laws and regulations. Airlines pick up food from various countries with different legislations. To bridge the gap pertaining to food safety regulations of different countries and implement uniformity, the International Flight Services Association (IFSA) has developed a World Food Safety guideline in association with World Health Organization (WHO). The WHO has published a guide to Hygiene and Sanitation for aviation focussing majorly on disinfection and water. IATA's cabin operations safety best practices guide includes food safety in its manual and list the role of different stake holders like cabin crew, health administration officials, catering companies and airlines with series of guidelines. Every flight catering establishment are following stringent policies and processes related to prevention of hazards in food and delivery of safe food in the sky. They have adopted different Food Safety Management Programs and certifications to carry out a smooth operation. Countries in their Food Safety laws have also laid down the importance of Food Safety Management Programs for different categories of food. You shall now learn about some global Food Safety Management programs being adopted by various stake holders in handling food to make it safe.

1.4.1 Hazard Analysis Critical Control Point (HACCP) :

Hazard Analysis Critical Control Point (HACCP) is a scientific and systematic food safety management system and approach that works on identifying specific hazards and measures of control to ensure safety of food. It is a tool that establishes control systems and is a preventive approach rather than reactive. Reactive measures that include end product audits and testing approaches may not be able to curb the problem of food safety at source. The HACCP considers a holistic approach and can be implemented throughout the food chain. The implementation is guided by scientific evidence of risks and its prevention so that human health is not compromised. The entire food safety management system of HACCP needs a commitment and complete involvement of people who drive the program in any establishment.

To implement the food safety management system of HACCP any catering establishment should follow and implement the general principles and legislations of Codex alimentarius. Codex is a guide of international food standards and codes of practice that contribute to the safety of food and is ratified by organizations like the World Health Organization and FAO. Codex standards are the basis of national legislation laws of many countries related to food safety.

The HACCP food safety management system is based on 7 principles that serve as the base for implementation of processes. The principles are outcome of scientific fundamentals and are in a logical sequence. To enumerate the principles of HACCP, they are as

- **Principle 1 – Conduct Hazard Analysis :** Catering establishments that are interested in implementing a food safety management system, start by assembling a HACCP team, a core unit, from within the organization that would drive and implement food safety processes. The team is often multidisciplinary and each member possesses relevant knowledge about

food and its concerns related to safety. The team works on all the food products that are to be produced encompassing all the aspects of safety information like source of purchase, distribution, storage, packaging, composition and the intended use of the food at the consumer level. Flow chart diagrams are prepared for all stages of the food product till it reaches the consumer. The assessment of hazards is identified by the team at different stages until the point of consumption of the food. The assessment of hazard includes

- i. the nature of the hazard
- ii. the occurrence of the hazard and repetitions
- iii. analysis on the impact of the hazard on health
- iv. analysis of microorganisms and their growth rate
- v. analysis of the presence of food toxins, chemicals or physical agents as hazards
- vi. the conditions leading the food to the presence of hazards.

Control measures for each hazard is identified by the team also and noted.

- **Principle 2 – Determining Critical Control Points (CCPs) :** These are points in the entire chain of food production beyond which food becomes unsafe for consumption. The identification of hazards in the food are correlated with critical control points to implement control measures. Food at no point of time should be allowed to breach the critical control points in the food safety management system. The team designs processes for each food item determining the various critical control points, to prevent/eliminate/reduce the threat of any potential hazard.
- **Principle 3 – Establishing Critical Limits :** Critical limits are minimum or maximum values to which a biological, chemical or physical can be prevented or eliminated. The storage of frozen food at temperatures below minus 18 degree Celsius is a critical limit.
- **Principle 4 – Establishing a system to monitor control of Critical Control Points :** Once the critical limits related to food hazards are defined and put in the operations, continuous monitoring is essential. Monitoring ensures a corrective action and any process adjustments that are required. The frequency of monitoring is according to the food product and the critical control point associated with the food product. The monitoring part is undertaken by designated team members and is documented.
- **Principle 5 – Establish Corrective Actions :** A standard deviation from a critical control point requires corrective actions immediately. The action should ensure that the critical control points are controlled. Example: In a catering establishment, the Critical Control Point designated for storage of raw meat has been assigned at -18 degree Celsius. On observation it is found that there is a deviation between the digital meter displaying freezer temperature and the actual temperature of the food product. Immediate intervention and corrective action is required to ensure that critical control point is followed.
- **Principle 6 – Establish principles to verify and confirm that HACCP system is working efficiently :** These are tests that are conducted by the team after implementation of the process to check whether the food

management system principles implemented are viable. The tools used for such tests include verifications, audits, random samplings, record review, deviation analysis and indicative studies of control of critical control points.

- **Principle 7 – Documentation of all procedures and records relevant to principles undertaken and its application :** Documents related to processes help to analyze the efficacy of the management system and its implementation over a period of time.

□ **Check Your Progress – 1 :**

1. Hands are to be cleaned inside a kitchen regularly with
 - a. Sanitizers
 - b. Only Water
 - c. Anti bacterial soap
 - d. Chemicals
2. The ideal temperature for pathogens to multiply in food is between
 - a. 10 degree Celsius to 63 degree Celsius
 - b. 5 degree Celsius to 40 degree Celsius
 - c. 10 degree Celsius to 75 degree Celsius
 - d. Minus 18 Degree Celsius to Minus 5 degree Celsius
3. HACCP stands for
 - a. Hazard Analysis Control Critical Point
 - b. Hazard Analysis Critical Control Point
 - c. Hazard and Control Point
 - d. Hazard Critical Control Point
4. IFSA stands for
 - a. International Flight Standard Association
 - b. In Flight Service Assistance
 - c. International Flight Stewards Association
 - d. International Flight Services Association

1.4.2 British Retail Consortium (BRC) Safety Standards :

The British Retail consortium is a body that developed and published standard guidelines for food safety in 1998 for food producers and suppliers globally. The processes food safety management of BRC is accepted worldwide by retail chains, food manufacturers and food service organizations. BRC works on a certification process of complete food strategy with detailed processes and focus on hygiene control. The major areas that the BRC food safety management system focus on are Food Safety, Quality Management System, Product Control, Process Control, Onsite standards, Employee Training.

1.4.3 Safe Quality Food Program (SQF) :

Based on International Standard ISO/IEC 17065 Safe Quality Program (SQF Program) is a rigorous, credible and quality enabled food safety program that is recognized globally. The program is for Retail food owners, Brand owners and Food service providers. The program is designed to meet Industry and consumer regulatory requirements with standard processes and annual audits and certifications. The SQF program is designed step wise for easy implementation in organizations and is a gradually progressive.

1.4.4 International Featured Standards (IFS) Food Standard Certification :

The IFS food standard certification is a global food safety initiative. The certification is based on food safety, quality, processes and products. The certification primarily works with processed and packaged food industry ensuring brand safety and quality. The food safety management system of IFS works in coordination with establishments to enforce a better planning , production, resource utilization, evaluation, comprehensive audit and a transparency process.

The Packaging Consortium (PAC) in collaboration with IFS works for implementing food safety management system in food packaging units to ensure safe and quality products being delivered. The program is known as IFS PAC Secure and follows the basic fundamental design and policies of HACCP.

1.4.5 Foundation Food Safety System Certification (FSSC 22000) :

The food safety management program combines the principles of ISO 22000 food safety management standard and PAS 220 standards. The program has acceptance from European Cooperation of Accreditation (EA). The food safety program integrates existing systems followed by organizations and makes them robust with a complete plan and guideline for food safety. Audits are conducted every 6 to 12 months under the system.

1.4.6 Global Red Meat Standard :

The Safety management system is for the meat industry and is from Denmark. The system follows EN 4504 standards and involves different processes of the meat processing industry and handling of meat products. The system is widely accepted across the European Union and is audit based food safety certification process.

1.5 FOOD SAFETY REGULATIONS OF SOME COUNTRIES :

Modern day food safety is a huge concern for governments across countries. Consumers of food are aware of all aspects related to food and products that are considered unfit for consumption by regulatory authorities spread through the social media immediately to consumers. In 2017, Maggi, a brand of Nestle faced immense criticism for the high amount of lead in its product. Different State governments undertook tests of samples and the news immediately reached consumers who refrained from purchasing it for a long time. Food is the most traded commodity globally and poses huge risk if there are no standards implemented to ensure safety. Food travels huge distances and management of supply chains are essential for keeping it safe. Governments are continuously working on food laws to prevent risks for citizens and many countries have undertaken a dynamic approach of change and implemented strict and stringent laws related to food. You shall learn about some safety measurement regulations adopted by different countries of the world for food safety.

1.5.1 Food and Drug Administration, United States– Food Safety Modernization Act (FSMA) :

The Food Safety Modernization act transformed the country's perspective on food safety system by shifting its focus on the concept to prevention of food borne illnesses. The implementation of the system is undertaken through a set of rules. The system believes that food safety is a shared responsibility amongst every stake holder in the supply chain. The rules and regulations related to the FSMA include

Hospitality Law

- Compulsory accredited third party certification of food products.
- Implementation of Good Manufacturing Practice norms in food establishments.
- Implementation of risk based hazard analysis and preventive controls of all food products by establishments.
- Introduction of systematic Foreign Supplier Verification programs
- Introduction of stringent Food Traceability systems and norms.
- Implementation of standards for laboratories that test food and award accreditations.
- Introduce defined standards for growing, harvesting, packing, holding of produce for human consumption.
- Introduce transport regulations for food supply.
- Implementation for qualified importer programs.
- Implement strategies to protect food against international adulteration.

1.5.2 Safe Food for Canadians Act (SFCA), Canada :

The SFCA in Canada like the FSMA in USA has brought a lot of drastic change in food safety. The act consolidated a lot of other acts that were implemented in Canada. The SFCA works in areas of food licensing, preventive controls with suitable measures and traceability requirements for food. The SFCA regulates food products that are imported or exported or traded between different provinces of Canada. The regulations as implemented and defined in SFCA are applicable to all types of food sold. Preventive controls are key safety management principles laid down by the Canadian government for all food business and 100% compliance is required to be followed by all food establishments in Canada.

1.5.3 European Food Safety Authority (EFSA) :

European Food Safety Authority (EFSA) is a European risk assessment body related to food and food safety. To enumerate the work of EFSA, it includes

- Close coordination with European Union member countries
- Involves a direct linkage with different stakeholders in the food business across European Union nations.
- Provides scientific research and communicates about existing and emerging risks related to food.
- Spreads awareness programs and protects consumers, animals and environment from food related risks.
- Management system for health and safety in compliance to standards and regulations like BS-OHSAS, EMAS, ISO 14001 etc.

1.5.4 Food Standards Australia and New Zealand :

Food Standards Australia New Zealand: A bi-national government agency, it develops and administers the Australia New Zealand Food Standards Code. The Code lists requirements for foods including additives, food safety, labelling and Genetically Modified foods. Enforcement and interpretation of the Code is the responsibility of state and territory departments and food agencies within Australia and New Zealand.

1.5.5 Food Standards System Brazil (MAPA and ANVISA) :

Numerous agencies and Ministries share jurisdiction for ensuring the safety of the Brazilian food supply. The Ministry of Agriculture, Livestock, and Food Supply (MAPA) and the Ministry of Health (MS) – through its National Agency of Sanitary Surveillance (ANVISA) – are the primary regulators of agricultural products. MAPA oversees and enforces a large number of regulations pertaining to production, marketing, import and export of animal origin products, fresh fruit and vegetables, alcoholic beverages, juices, grains, seeds, and animal feed (including pet food). ANVISA enforces most of the regulations regarding processed food products. MAPA and ANVISA's regulations may be consulted on-line. On MAPA's website (www.agricultura.gov.br) the search tool SISLEGIS makes available the current regulations on products that are under MAPA's supervision.

1.5.6 The China Food and Drug Administration (CFDA) :

The China Food and Drug Administration (CFDA): CFDA was founded on the basis of the former State Food and Drug Administration (SFDA). In March 2013, the regulatory body was rebranded and restructured as the China Food and Drug Administration, elevating it to a ministerial-level agency. The CFDA replaced a large group of overlapping regulators with an entity similar to the Food and Drug Administration of the United States, streamlining regulation processes for food and drug safety. The CFDA is directly under the State Council of the People's Republic of China, which is in charge of comprehensive supervision on the safety management of food, health food and cosmetics and is the competent authority of drug regulation in mainland China.

1.5.7 The Food Safety and Standards Act, 2006 (FSSA), India :

The Food Safety and Standards Act, 2006 consolidated a lot of other acts related to food safety and established the Food Safety and Standards Authority of India. The standards devised for food safety are science based and regulate manufacture, storage, distribution, sale and import of food items, to ensure availability of safe and wholesome food for human consumption. You shall learn in detail the Food Safety and Standards Act, 2006 in detail in the next unit.

❑ Check Your Progress – 2 :

1. The abbreviation CCP denotes
 - a. Critical Control Point
 - b. Critical Cut Point
 - c. Critical Control Pattern
 - d. Critical Cohesive Process
2. The abbreviation BRC stands for
 - a. British Retail Company
 - b. British Retail Consortium
 - c. Bombay Retail Consortium
 - d. British Rapid Company
3. The abbreviation EA stands for
 - a. European Accreditation
 - b. European Access
 - c. European Cooperation of Accreditation
 - d. English Accreditation

4. The abbreviation FSMA stands for
 - a. Food Safety Modernization Access
 - b. Fire Safety Modernization Act
 - c. Food Safe Modern Access
 - d. Food Safety Modernization Act

1.6 LET US SUM UP :

Food is one of the key elements of experience for passengers travelling in an airline. Delivering healthy and safe food at a high altitude for so many flights is a complex process. The food is prepared by different catering companies who have their base kitchen set up in the ground at different strategic locations and destinations. Hazards pertaining to food are very challenging and hygiene is one of the key components that these catering establishments adhere to for ensuring a safe food on flight. Hygiene procedures include personal, food and kitchen hygiene encompassing strict standards and protocols at every step of the supply chain for production. The catering companies enforce different food safety management systems that work on prevention of any hazard at the inception stage. These food safety management systems are designed on international standards and include a complete planning of the operations that is compartmentalized, designing processes for each section, implementation of the processes, audits, certifications, good manufacturing practices and correction of any deviation from the standard operating plan. International food safety management systems like HACCP, BRC, SQF, FSSC and others are implemented at every aspect of the food supply chain. Catering establishments also extend their food safety management systems to vendors, suppliers and other associated stakeholders involved with the establishment in the food supply chain. Countries across the globe want their citizens to consume safe and wholesome food. With consumer awareness being a priority of the century, many countries have brought reforms in their laws related to food for their citizens.

1.7 ANSWERS FOR CHECK YOUR PROGRESS :

- ❑ **Check Your Progress 1 :**
 - (1 – c) Anti Bacterial Soap
 - (2 – a) 10 degree Celsius to 63 degree Celsius
 - (3 – b) Hazard Analysis Critical Control Point
 - (4 – b) International Flight Services Association
- ❑ **Check Your Progress 2 :**
 - (1 – a) Critical Control Point
 - (2 – b) British Retail Consortium
 - (3 – c) European Cooperation of Accreditation
 - (4 – d) Food Safety Modernization Act

1.8 GLOSSARY :

Hazard : Source of potential harm leading to adverse health

Hygiene : Practices followed to maintain health and prevent any disease

Catering : Business of providing food service to a remote site like airlines

Pathogen : Organisms that cause disease

Sanitize : To disinfect

Staphylococcus : A type of harmful bacteria

Contamination : Action of making food polluted

Standard : A level of quality

Safety : The condition of being protected from an unlikely hazard

Traceability : The process of finding the origin

1.9 ASSIGNMENT :

You have been appointed as a chef for a flight catering unit. There are 10 team members who are assigned to work under you. The team members come from different cultural backgrounds, nationalities and have different levels of education.

1. List the key aspects related to safety of food you should implement in the kitchen ?
2. What shall be the different benchmarks to ensure that compliance is adhered ?

1.10 ACTIVITIES :

Study the food preparation and delivery systems of some of the best flight catering companies of the globe. Make a comparative and indicate the best practices for each company.

1.11 CASE STUDY :

A young chef joins Star X Services, a reputed catering unit. He is put through a 10 day induction program on standard operating procedures and manuals for the kitchen. After reaching the shop floor, he finds that the implementation of SOPs is not being adhered by people working and even by senior chefs. The operations are so busy that he hardly gets time to speak about the aspect to his senior chef. The breach of standards poses a potential hazard to food prepared and delivered.

1. In this situation list the aspects that young chef should undertake to ensure that the standards are followed ?
2. How shall he deal this situation with the senior chefs working there ?

1.12 FURTHER READING :

1. Aviation Food Safety by Erica Sheward
2. www.ifst.org.
3. Food Safety in Aviation by ICAO
4. Flight Catering by University of Surrey
5. www.fssai.gov.in
6. www.fda.gov
7. www.fao.org
8. www.wikipedia.org
9. www.tourism.gov.in
10. Archives from fssai.gov.in

UNIT STRUCTURE

- 2.0 Learning Objectives
- 2.1 Introduction
- 2.2 Important Definitions under Food Safety and Standards Act, 2006
- 2.3 Objectives of Food Safety and Standards Act, 2006
- 2.4 Salient Features of Food Safety and Standards Act, 2006
- 2.5 Functions and Objectives Food Safety and Standards Act, 2006
- 2.6 Regulatory Enforcement of Food Safety and Standards Act, 2006
- 2.7 Penalties under Food Safety and Standards Act, 2006
- 2.8 Let Us Sum Up
- 2.9 Answers For Check Your Progress
- 2.10 Glossary
- 2.11 Assignment
- 2.12 Activities
- 2.13 Case Study
- 2.14 Further Reading

2.0 LEARNING OBJECTIVES :

- To list and enumerate some definitions pertaining to food and Food Safety and Standards Act.
- To enumerate the scope, features and implementation of the Food Safety and Standards Act in India.
- To understand the functions and powers of Food Safety and Standards Act of India related to food establishments.

2.1 INTRODUCTION :

"Safe, wholesome, and hygienic food would create 'Swasth Bharat'. This has to be the cornerstone of the efforts of the FSSAI"– Shri Narendra Modi, Honble Prime Minister of India.

The concept of one nation, one food law based on scientific practices and global benchmarks of standards and practices was introduced in our country in 2006. The law regulates manufacture, storage, distribution, packaging, sale, import of food products across the country. You as a student of aviation must know about the FSSA Act as food is an important aspect of the airline industry. In this unit you shall know about the different aspects and importance of the Food Safety and Standards Act and the role of the regulatory body FSSAI in implementation of the act.

2.2 IMPORTANT DEFINITIONS UNDER FOOD SAFETY AND STANDARDS ACT, 2006 :

■ **Food** : Food according to the Food safety and Standards Act is a substance that may be unprocessed, partially processed or processed and is intended for human consumption. The food may be primary food (as defined in the act), genetically modified food or engineered food. Water used in manufacture, preparation or treatment of food is also considered to be food. Products like alcohol, chewing gum, infant food, packaged drinking water are also considered in the category of food. All types of imported food also come under the purview of the act. The provision of the act is not applicable to a farmer or a fisherman or to crops, livestock and food items produced at the farm level.

■ **Food Business** : An establishment either private or public carrying out activities of food at any stage of manufacture, processing, packaging, storing, transportation, distribution, import and sale are part of a food business. The purpose of the above may or may not be for profit. Hotels and catering establishments are part of the food business.

■ **Misbranded Article of Food** :

Any food that is offered or promoted for sale with

- false, misleading or deceptive claims either upon the label or through advertisement, or
- sold by a name which belongs to another article of food; or
- sale or offered for sale under the name of a fictitious individual or company as the manufacturer or producer

The Food is Sold in Packages which

- is imitation of or is a substitute for or resembles in a manner likely to deceive
- bears false or misleading statement, design or device or is deceptive or
- the article is offered as the product of any place or country which is false or misleading

If the Food Article Contained in the Package

- contains any artificial flavouring, colouring or chemical preservative and the package is without a declaratory label or is not labeled in accordance with the requirements of this Act or regulations or
- is offered for sale for special dietary uses, unless its label bears such information as specified concerning its vitamins, minerals or other dietary properties in order sufficiently to inform its purchaser as to its value for such use; etc.

■ **Food Business Operator** : Food Business Operator is a person by whom the business of food is carried on or owned and is responsible for ensuring the compliance of this law.

■ **Sub-Standard Food** : An article of food shall be deemed to be sub-standard if it does not meet the specified standards as laid down in the FSSA act but not so as to render the article of food unsafe.

- **Unsafe Food** : An article of food whose nature, substance or quality is so affected as to render it as injurious to health.
- **Food Safety Management System** : Food Safety Management System is the adoption of Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Point and such other practices as may be specified by FSSA regulation, for the food business.
- **Hazard** : Hazard is a biological, chemical or physical agent in, or condition, of food, with the potential to cause an adverse health effect.
- **Risk Analysis** : Risk Analysis is a process consisting of three components, i.e. risk assessment, risk management and risk communication. Risk assessment is a scientifically based process consisting of
 - hazard identification
 - hazard characterisation
 - exposure assessment and
 - risk characterisation
- **Risk Management** : Risk Management is a process, of evaluating policy alternatives, in consultation with stakeholders considering risk assessment and other factors relevant for the protection of health of consumers and for the promotion of fair trade practices, and selecting appropriate prevention and control options in food.
- **Check Your Progress – 1** :
 1. According to the definition as given under Food Safety and Standards act, food includes
 - a. only processed food items
 - b. Processed and unprocessed food items
 - c. Unprocessed, partially processed and processed food items
 - d. None of the options
 2. Food advertising that includes false claims of making a person tall in 5 days is called
 - a. Misbranding
 - b. false propaganda
 - c. Mislabeled
 - d. Fictitious branding
 3. Food not adhering to Food safety and safety act standards is known as
 - a. Misbranded food
 - b. Sub Standard food
 - c. Hazardous food
 - d. Unsafe food
 4. Identifying hazard in food through a scientific process is called
 - a. Risk Analysis
 - b. Risk Communication
 - c. Hazard Analysis
 - d. Risk Chain

2.3 OBJECTIVES OF FOOD SAFETY AND STANDARDS ACT, 2006 :

The food sector prior to implementation of the FSSA Act 2006 was governed by 9 different laws and 8 different ministries. The laws were framed by different ministries with approaches and perspectives. The laws were overlapping

with different standards required for a same product. There was a need for a new regulatory framework in the food industry. The new law

- Abolished multiple regulations related to food
- Synchronized with International standards and regulations related to food
- Brought a change in the perspective through scientific approach, risk measurement and analysis
- Facilitated trade from a global perspective and innovations in food.
- Assured consumers of quality and safety in food.

2.4 SALIENT FEATURES OF FOOD SAFETY AND STANDARDS ACT, 2006 :

The Food Safety and Standards Act has unified the fragmented laws prevalent in the country and effectively implemented a single law with a rational and holistic approach. The salient features of the Food Safety and Standards act 2006 are

- The Act works on a model of self compliance rather than continuous regulations by authorities from various departments. There are clear guidelines that are provided to all stake holders involved in the food business and compliances are to be followed by the stake holders. The shift is from regulatory regime to self compliance to introduce and foster a food safety culture in the country.
- The law brings a transparency in the regulatory framework. The regulatory framework has been structured with well defined functions, powers and authorities of different food authorities, bodies and committees.
- The model of decentralization of licensing and authorities of State in the licensing process has been clearly indicated in the act.
- Clear regulations and guidelines on the import of food in the country are specified.
- Food Traceability and recall standards have been incorporated in the act to ensure the safety aspect associated with food.
- Surveillance systems for different departments on food products have been defined and the same is followed regularly as per norms of the act.
- The act has led to association of large network of food laboratories across the country. The development of Rapid Analytical Food Testing kit (RAFT Kit) will help in spot testing of food articles and reduce costs of testing of food items.
- Food related disputes have been given priority through set up of fast track courts in various places.
- Consistency of processes for food safety at par with International standards.
- Continuous awareness programs and certifications on food safety to different stake holders of food through different agencies under FOSTAC.
- Creation of a creative website (www.fssai.gov.in)with multiple features including Knowledge Hub, online platforms, video interaction , initiative platforms like EAT RIGHT INDIA, Newsletters, Global Food Safety Partnerships etc.

2.5 FUNCTIONS AND OBJECTIVES FOOD SAFETY AND STANDARDS ACT, 2006 :

The Food Safety and Standards India (FSSAI) undertake multiple functions and has clear objectives for a safe country related to food under the Food Safety and Standards Act 2006. To enumerate they are

- The FSSAI frames regulations to lay down the standards and guidelines in relation to food articles and set up an appropriate system of enforcing various standards.
- Regulates and monitors the manufacture, processing, distribution, sale and import of food to ensure its safety and wholesomeness.
- It also lays down mechanisms and guidelines for the accreditation of certification bodies that are working in the certification of food safety management system for food businesses.
- One of the major functions includes laying down procedures and guidelines for accreditation of laboratories and notification of the accredited laboratories.
- FSSAI also provides scientific advice and technical support to the Central Government and State Government in the matters of framing the policy and rules in areas that have a direct/ indirect bearing of food safety and nutrition.
- It is also responsible for collecting data regarding food consumption, incidence, and prevalence of biological risk, contaminants in food, residues of various contaminants in food products, identification of emerging risks and introducing the rapid alert system.
- This organization is responsible for creating an information network across the country so that the public, consumers, panchayats, etc. are able to receive rapid, reliable and objective information about food safety and issues of concern.
- It plays a huge role in the development of international technical standards for food, sanitary and hygiene standards
- Promotes general awareness and training programs in association with partners about food safety and food standards.
- Sets limits for Food additives, contaminants, veterinary drugs, heavy metals, toxins, irradiation of food and various processing aids.
- Sets guidelines for quality control of imported food.
- Specify food labelling standards including claims on health, nutrition, special dietary uses & food category systems

2.6 REGULATORY ENFORCEMENT OF FOOD SAFETY AND STANDARDS ACT, 2006 :

To implement the Food Safety and Standards Act 2006, there is definite structure that is created in every state of India. The Food Safety and Standards India (FSSAI) is headed by a Food Safety Commissioner. There are designated Food Safety Officers reporting to the Food Safety Commissioner. Each State has a panel of accredited laboratories at the district level with a food analyst to check safety aspects. States also have an adjudicating officer, tribunals and a special

court to deal with matters related to the safety of food. If we enumerate the roles and responsibilities of the Food Safety Commissioner and other designated officers they are as

- Carrying out regular inspections of food establishments and checking on compliances followed by the establishments according to the FSSA.
- Prohibit manufacture, sale, and distribution of any food product in contravention of the act, in the interest of public health.
- Conduct inspections of food establishment premises, collect food samples, conduct investigations and seizure of any articles not permissible under the act.
- Carry out food samplings from various food establishments and initiate prosecution against establishments not adhering to standards as specified by the act.
- Represent cases pertaining to food safety against food establishments legally.
- Initiate effective programs on awareness of food safety norms according to the act with various stakeholders involved with food.
- Undertaking licensing and registration functions for food establishments. (You shall study on the licensing aspect in the next unit in detail).

2.7 PENALTIES UNDER FOOD SAFETY AND STANDARDS ACT, 2006 :

The FSSAI in order to regulate and bring uniformity for safety in food undertakes efforts in continuous monitoring of the act. Though the act is self regulatory and food business operators are supposed to follow the guidelines of the act and implement for a self compliance, there are establishments that deliberately do not adhere to any safety norms related to food. FSSAI initiates strict penalties for establishments found guilty of issues pertaining to food safety that may harm consumers. Some of the regulations related to penalty are

- If a food establishment serves food that is unsafe and causes grievous injury to the consumer, the food establishment owner is fined with Rs 6 lacs with up to 5 years of imprisonment. The license of the establishment may also get cancelled on grievous offence in this context.
- If a food establishment serves food that is unsafe and causes non-grievous injury to the consumer, the food establishment owner is fined with Rs 3 lacs with up to one year of imprisonment. The license of the establishment may or may not get cancelled on non-grievous offence in this context.
- The compensation in case of grievous injury is Rs 3 lac and in case of non-grievous injury it is Rs 1 Lac to the consumer.
- If death occurs due to consumption of food supplied by a food establishment, the establishment owner may get a sentence from 7 years in prison to life sentence. A fine of Rs 10 lac is imposed with the food license getting cancelled. The compensation in case of death to a consumer is Rs 5 lac.

The uniformity of food laws through the Food Safety and Standards act has ensured that food consumed by people of the country is safe and wholesome. The laws have been based on science and are at par with International standards. The law empowers authorities to initiate corrective action and prevent contaminated

food to reach consumers. As a student of aviation you shall be benefitted by studying the laws as the same apply for all food served on airlines. A further study of the acts pertaining to Food safety is recommended.

❑ Check Your Progress – 2 :

1. The abbreviation RAFT stands for
 - a. Rapid Analytical Food Testing
 - b. Rapid Antigen Food Testing
 - c. Rapid Antibody Food Testing
 - d. None of the Above
2. Awareness and Safety programs to different stake holders are undertaken by FSSAI through its program known as
 - a. FOSTRAC
 - b. FOSTAC
 - c. FASTAG
 - d. FOCTAS
3. The cases related to food safety are registered at
 - a. High Court
 - b. Sessions Court
 - c. Special Tribunals
 - d. Supreme Court
4. In event of death of a consumer after consumption of food supplied a food establishment the maximum punishment offered under the offence is
 - a. Fine of Rs 6 Lacs and 5 Years of imprisonment
 - b. Fine of Rs 10 lacs and Life sentence
 - c. Life Sentence
 - d. Fine of Rs 3 Lacs and 1 year of imprisonment

2.8 LET US SUM UP :

The concept of one nation and one food law to provide safe, wholesome and hygienic food to the people of India is the prime focus of the government. With this objective the food laws were amended by the Central government in 2006 and considerable reforms were introduced based on international benchmarks, standards and scientific principles. The new food law known as Food Safety and Standards Act, 2006 abolished multiple regulations that were prevalent under different ministries and involved all stake holders of food into a self compliance preventive model from the regulatory model. The Food Safety and Standards act aims at transparency and clear guidelines developed on scientific parameters to be implemented holistically amongst stake holders of food. With a structured body to enforce regulations and clear laws for non compliance, the Food Safety and Standards Act brings Indian food laws at par with global standards. The body has a network of laboratories for testing of food and well knit collaboration with different institutions for implementation of awareness programs at the grass root level also regarding food, safety and hygiene.

2.9 ANSWERS FOR CHECK YOUR PROGRESS :

❑ Check Your Progress 1 :

- (1 – c) Unprocessed, partially processed and processed items.
- (2 – a) Misbranding
- (3 – b) Substandard food
- (4 – a) Risk Analysis

❑ **Check Your Progress 2 :**

- (1 – a) Rapid Analytical Food Testing
- (2 – b) FOSTAC
- (3 – c) Special Tribunals
- (4 – c) Fine of Rs 10 Lac and Life Imprisonment

2.10 GLOSSARY :

Food Risk : Food items regarded as threat or likely source of danger.

Regulation : Rule or directive made and implemented by an authority.

Surveillance : Close observation.

Offence : A breach of law or an illegal act.

Registration : Certificate that attests registering of a food establishment.

Standard : As agreed or required level of quality

2.11 ASSIGNMENT :

Draw a plan to implement a food management safety system for a cake shop according to the rules of Food Safety and Standards Act 2006.

2.12 ACTIVITIES :

List 20 food items from different categories and refer to the standards that are to be followed by different food operators according to Food Safety and Standards Act, 2006.

2.13 CASE STUDY :

On inspection at a food outlet by officials of the Food Safety department, contaminated vessels kept with cooked food and hygiene issues were indicated. The officials made an observation report and submitted the same. The department issued a fine to the food outlet indicating the necessary concerns and the precautions that the owner has to undertake. The owner appealed against the fine imposed and brought concerns related to lack of evidence against him in the above case and also included an element of vindictive behaviour of officials against him and his food outlet on personal grounds.

1. What should have been done by the officials during the checking to prevent case of lack of evidence being brought ?
 2. What should be further steps of the department related to food outlet ?
 3. What recourse does the owner of the food outlet have against the fine imposed on him ?
-

2.14 FURTHER READING :

1. www.fssai.gov.in
2. Food Safety and Standards Act, 2006 by Universal Law Publishing

UNIT STRUCTURE

- 3.0 Learning Objectives
- 3.1 Introduction
- 3.2 The History of Airline Catering
- 3.3 The Airline Catering Business
- 3.4 Regulations for Setting up Flight Catering Establishment in India
 - 3.4.1 General Guidelines and Criteria
 - 3.4.2 Requirements for Building Catering Establishment by Ministry of Tourism
- 3.5 Licensing Procedure for Catering Establishment According to FSSAI
 - 3.5.1 Inspection for Grant of License
 - 3.5.2 Validity and Renewal of License
 - 3.5.3 Routine Inspection
- 3.6 Let Us Sum Up
- 3.7 Answers For Check Your Progress
- 3.8 Glossary
- 3.9 Assignment
- 3.10 Activities
- 3.11 Case Study
- 3.12 Further Reading

3.0 LEARNING OBJECTIVES :

- To List the history of airline catering and its evolution globally.
- To list and understand the regulations required to set up a airline catering establishment in India.
- To enumerate the regulations of Ministry of Civil Aviation for airline catering establishments.

3.1 INTRODUCTION :

Have you ever thought while travelling in an aeroplane cruising at over 800 km/hour, high above the ground, eating a delicious hot lunch, neatly packed and served for you how the food is prepared and served to you hot at such an high altitude? The food that you eat in an aeroplane comes from a facility on the ground, undertaking a set of complex operations behind the curtain. The meals are prepared and delivered by professional companies across the globe to thousands of airlines at different destinations. Food service in an aeroplane often is considered the benchmark of quality and service for the airline.

3.2 THE HISTORY OF AIRLINE CATERING :

- After the World War I, the development of airlines as a means of travel started. Mail delivery was given priority more than passenger transport. Passengers who boarded the aeroplane during that time were offered no food. The aeroplanes had no galleys or pathways. The pilots flying the aircrafts often had sandwiches and beverages that were packed from the ground.
- Handley Page Transport was the first company to serve food to passengers in a flight from London to Paris. It was a lunch box costing 3 shillings. The airline company Handley page was founded in 1919 after World War I by Frederick Handley Page. The company later merged its assets with three other companies and the Imperial Airways was formed.
- The DC 3 aircrafts launched by American Airways were the first aircrafts with galleys. These aircrafts had more passenger capacity seating around 30 people. American Airways started serving food in these aircrafts with no heating facilities on board. The food was packed at the ground and served to passengers aboard.
- In 1940, the Boeing Stratoliner started commercial service and could cruise at an altitude of 20000 feet. This was the first airline with a pressurized cabin and a capacity of carrying 33 passengers. Food was served in this airline as in flight food had started gaining popularity among passengers.
- As there was demand from passengers for food aboard flights airlines started becoming concerned about the technical aspects of food service on airlines. Airline companies were paying high prices to outlets situated in the airport terminals to serve food to passengers on board. United Airlines undertook this opportunity and built the first flight kitchen at Oakland in United States in 1936. Hot meals were prepared in these kitchens and special emphasis to the taste at high altitude was ensured. The first meals to be served from these kitchens were Fried chicken or scrambled egg.
- In 1950, Panam airlines introduced silver service for first class passengers. The company entered into a culinary partnership with Maxim's, a renowned restaurant in Paris and developed Presidential special service.
- The British Airways soon started serving exquisite food items on the iconic Concorde aircrafts. Items like caviar, truffles, foie gras was served.
- The trend of the Concorde meals led to the French Union de Transports Aeriens to recruit famous chef Raymond Oliver for reworking of menus on Air France. Since then till today, a lot of celebrity chefs have been involved in the preparation and designing of in-flight menus. Celebrity chef Gordon Ramsay collaborated with the Singapore Airlines and Chef Daniel Boulud with Air France.
- In 1954, Scandinavian Airlines (SAS), served Smorresbrod on its flights naming them as sandwiches. This led to a legal war between the airlines and the United States as Smorresbrod did not qualify the norms for a sandwich.
- The 1970's saw the deregulation of airlines leading to drop in airline fares. In 1971, Southwest airlines introduced peanuts as a mid air flight snack in its aircrafts. However, peanut related allergies from passengers made them remove from their flight menu in 2018.

- In 1985, Ryan Air, one of world's largest airline company, introduced the no frill budget airline. The company started charging for the food and drinks that were served to passengers on board. Ryan Air faced a lot of criticism from passengers but the model was adopted by a lot of airlines later.
- In 1987, Robert Crandall, CEO of American Airlines, became popular by saving 40,000 USD annually through removing of a single olive from every salad served in the first class.
- In 2000, Jet Blue in its free onboard snacks section introduced signature potato chips. The same became so popular that Jet Blue had plans of opening a Potato farm and garden at Terminal 5 of John F Kennedy airport of New York.
- In 2001, the first online forum for discussion of airline food with photographs called airlinesmeal.net was launched.
- After 2001, airlines across the globe bans cutlery on its flights and introduces plasticware.
- In 2013, booking meals along with ticket booking is launched by Air Baltic for the first time.
- In 2019, Singapore Airlines partners with Aerofarms to introduce farm to fork concept in its flights. The company started growing farm fresh items near the airport through vertical farming techniques.
- The world's largest flight catering facility is of Emirates located in Dubai. An average of 3 lac meals per day is produced at the facility and employs chefs from across the globe. From Sushi to different regional cuisines, the airline offers different cuisines in all its flights scheduled for different routes.

❑ **Check Your Progress – 1 :**

1. The first company to serve food inside an airline in 1911 was
 - a. British Airways
 - b. Handley Page Transport
 - c. SAS
 - d. Air France
2. The airline company that introduced paid meals for the passengers for the first time in 1985 was
 - a. Ryan Air
 - b. Indigo Airlines
 - c. Jet Blue
 - d. Virgin Atlantic
3. The world's largest flight catering facility belongs to
 - a. Oman Air
 - b. Air India
 - c. Emirates
 - d. Air Asia
4. Meal booking with ticket was first introduced by
 - a. Singapore Airlines
 - b. Japan Airlines
 - c. SAS
 - d. Air Baltic

3.3 THE AIRLINE CATERING BUSINESS :

The Airline catering business is a challenging and complex operation. Airline companies depend on Airline catering service providers to manage the catering and logistics of meals to be served to passengers. The catering operation involves a synchronized coordination of material flow between suppliers, warehouses, catering operations with no flexibility of time and demanding targets

for achievement. The schedules of different airlines pinpoint the operations. As onboard catering is a critical service to the end customer, any change in schedule by an airline disrupts the operations of the catering company by posing a challenge to production and delivery, material flow, manpower scheduling, inventory management, machine loading and capacity utilization. The airline catering operation is dynamic and is based on competitive performance targets of quality, flexibility, responsiveness and dependability. The salient features that differentiate airline food catering from any other food business are

- Hygiene and Cleanliness at Airline food preparation units are of paramount importance. Airline catering units have a zero tolerance policy of breach of safety and hygiene. Strict protocols and Standard operational procedures are laid down as per HACCP norms and continuous audits from different bodies including airline companies are prime in catering operations for airlines.
- Many Airline food catering companies have food testing facilities and employ food technologists and hygiene managers to conduct rapid checks and tests of food. There is no compromise on safety as unsafe food consumed by a passenger at 35000 feet altitude may lead to disastrous consequences.
- Airline Catering companies work on a particular structure and pattern. Meals are pre-designed and placement of items during packing at the assembly line is also pre-designed and uniform. There is no scope of any change or innovation which is possible in other type of food operations.
- The supply chain and standard operating procedures in a supply chain are strictly managed in airline catering. There is no scope of the supplier, the catering unit, the delivery high loader and the airline to break the procedures of the supply chain as it may be fatal. The entire process works on identification of critical control points and critical limits that decide the flow of operations.
- Time is a major factor in airline catering operations. There is no scope of any delay for food as airlines have a fixed schedule. Any delay by the catering company in supplying food to an airline adds up to a lot of expenses to borne by the airlines. With a single airline undertaking multiple destinations throughout the day, catering companies have no scope of any delay.
- Preparation of a wide range of meals that cater to different cultures, communities, age groups, dietary restrictions and passengers with medical conditions.
- Airline catering units use best technology for smooth preparation and delivery of food and equipments that can prepare, cool, assemble and deliver food faster without errors.
- A strong supplier management system that can support the entire operations efficiently.
- Presence of a multicultural and diverse pool of working personnel to cater to different food requirements and menus.
- Continuous training on safety issues and protocols related to food to each staff working in Flight catering food units.

3.4 REGULATIONS FOR SETTING UP FLIGHT CATERING ESTABLISHMENT IN INDIA :

With the movement of major airlines from different destinations there is a growing need of flight catering units being set up in different locations in the country. The Ministry of Tourism, Government of India, under a scheme has given approval for promoting tourism in India and meeting the requirement of air passengers. With more flights the government wants to professionally cater to the specialized input and output of catering services.

3.4.1 General Guidelines and Criteria :

The criteria as laid down by the Ministry of Tourism are as

- The catering Unit to be constructed shall be in close proximity to the airport for efficient delivery of the services. The area should be preferably earmarked by the Airport Authority of India.
- The locality of the area where the catering unit proposes to build its facility should be easily accessible by road, having a proper approachability in perspective of vehicles, located in an area that is clean and hygienic.
- The establishment shall obtain valid licences as required for a food establishment. They include Police clearance, no objection certificates from fire department , health licence and any other licences that are mandatory.
- The Catering unit should be of a reasonable size according to the volume of business it shall cater, implement good manufacturing practices.
- The design of the facility should ensure that there is no problem in the work flow during operations, no cross over of raw, processed food and garbage and minimal backtracking.
- The establishment shall ensure proper ventilation and lighting as per international standards.
- The facility should have provisions of temperature control in different zones as required, hygiene and safety management equipments and provisions for managing insects and pests.
- The establishment needs to have equipments that facilitate safety of food items like cold storages, deep freezers, blast chillers and blast freezers.
- The establishment should have treated water supply facility as per norms and laws of the country.
- There should be an effective and proper waste disposal management system in place according to the regulations and international standards.
- The establishment should have facility for staff as is required for smooth operations.
- HACCP criteria to be fulfilled by the establishment as issued by International Flight Catering association. The critical aspects taken into consideration in this regard include
 - i. Temperature controlled set up as is required for different types of food products.
 - ii. Effective supply chain maintenance in the whole process of operations.

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- iii. Standard Operating procedures defined for every small operational process.
 - iv. Proper storage of food products as specified by International norms. (Cold rooms below 5 degree celsius and freezers below –18 degree Celsius).
 - v. Strict temperature adherence in every of production process and despatch process as per International standards.
 - v. Regular audits and certifications of the premises as per International standards.
- All equipments installed at the establishment should meet food safety criteria.
 - Documentation of all cleaning and fumigation schedules as per the standard operating procedures to be established.
 - Microbiological laboratory with microbiologists to collect and test different food item samples to be undertaken on a routine basis and as per international norms. Tests for coliform group of bacteria, Salmonella, Staphylococcus etc should done regularly. The chemical analysis for pH, TDS, hardness of water, Alkalinity, fat content in dairy products, gluten content etc shall also be conducted on a regular basis.
 - Medical health check up of all employees working in the establishment should be undertaken regularly. The health report of staff prior to recruitment shall be taken. Staff should be vaccinated against typhoid every 3 years. The standard protocol as per government norms on health advisories shall be implemented.
 - Personal hygiene of staff shall be given high priority. Training of staff related to food microbiology, personal hygiene, audits and cleaning procedures shall be incorporated as per standard operating procedures regularly.
 - Establishment of a food safety management system at every stage of food operations.
 - There should be sufficient and qualified staff available to meet the professional standards of the establishment.
 - Bonded Warehouse wherever necessary shall be established as per government regulations.
 - Provision of in house medical facility should be present.
 - The establishment should have modern and mechanized vehicles for transportation of food as per International standards and requirements.
 - The establishment should be free from any green house poisonous gases that are emitted from refrigeration units.
 - The establishment shall use biodegradable material for packaging as specified by international norms.
 - The classification of the units shall be undertaken by the Hotel and Restaurant Approval Classification committee (HRACC).

3.4.2 Requirements for Building Catering Establishment by Ministry of Tourism :

The legal requirements as specified by the Ministry of tourism to build a standalone flight catering unit in India are

- The project report for feasibility of the proposed unit.
- The description of the amenities as per the general guidelines.
- The details of the site and land use certificate from the local body.
- The blue prints of the plan for the facility from an architect.
- Ownership deed for the site.
- Urban Ceiling certificate as is applicable.
- Name and Address of the promoters for the establishment.
- The details of the company that shall run the establishment.
- Estimated cost of the project and the source of funds for the project.
- Approval fee for processing the project.

3.5 LICENSING PROCEDURE FOR CATERING ESTABLISHMENT ACCORDING TO FSSAI :

License under the Food Standards and Safety Act of India is mandatory to undertake business of catering. Since airline catering business is structured and do not come under the category of a petty food business operator, you shall study about the procedure that encompass structured establishments. The procedure for obtaining license is

Step 1 : Filling of Application form B along with necessary documents and fees by the Food Business Operator.

Step 2 : Scrutiny of application is conducted and additional information or documents if required are uploaded through a notice.

Step 3 : The food business operator furnishes additional information or documents as required.

Step 4 : Inspection of premises is undertaken. Inspection report is submitted. Any shortcomings or improvements required are informed to the food business operator through an improvement notice.

If inspection does not happen within a period of 60 days from submission of application, the food business operator may start the business.

Step 5 : The authorities either grant the license or reject after 30 days of inspection. License is issued in Form C.

A copy of the license shall be displayed by the food business operator at prominent places. In event of rejection of a license, the reasons for the same shall be recorded by the concerned authorities and provisions for hearing the food business operator prior to rejection shall also be provided. In event of rejection of license, the food business operator can appeal for the same to Food Safety Commissioner.

3.5.1 Inspection for Grant of License

Inspection for granting license to food business operators in India is mandatory for

- All food business operators applying for a new license.
- All food business operators renewing a license. Inspection of food business operator's premise is also mandatory once in a year.

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- In event of renewal of licenses, often if the food business operator has the necessary certifications from an accredited food safety auditor or agency or an organization as notified by the food authority, inspections may be exempted.
- In event of an inspection been carried out by an officer or an agency authorized by the licensing authority, a copy of the inspection report has to be handed to the applicant suggesting the necessary improvement aspects on compliance.
- Inspection of the premises is undertaken according to Schedule IV of licensing and registration regulations.

3.5.2 Validity and Renewal of License :

- A license has a valid period depending on the type of food business operation. The validity of the license can be between 1 to 5 years.
- Licenses not applied for renewal within stipulated time shall expire and fresh application for issuing of license has to be undertaken on expiry.
- A valid certificate of Food Safety auditor or agency or organization must be present with the food business operator as per the norms of the authority.
- Any modifications in the product category in business, layout, expansion, closure shall be intimated to the licensing authorities during the renewal process.
- The licensee is required to submit a return of each class of food products of his business to the authorities before 31st May each year.

3.5.3 Routine Inspection :

Routine inspections are undertaken for food business operators to ensure that compliances pertaining to the Food Safety and Standards Act are being followed by organizations. Designated officers undertake inspections for

- Sanitary and hygiene related aspects according to standards laid by the act.
- Food items and their quality and storage aspects.
- Contravention of any provision of any act pertaining to food.
- Verification of mandatory documents related to food.
- Sampling of food products.

Food Safety officers have the right to inspect facility of the food business operator and has the right to seize, detain, destroy any food material that is in contravention to the act with necessary procedures followed. The food safety officers also have the power to initiate legal action against food business operators as per the provisions of the act as studied by you in Unit 2 of this block. It is the duty of the food safety operator to comply to provisions of the Food Safety and Standards act.

Check Your Progress – 2 :

1. When food and garbage cross paths of each other in a kitchen, it is called
a. Cross over b. Cross down c. Back tracking d. Back flow
2. For rapid chilling of food in an airline kitchen, equipment used is called
a. Chiller b. Blast Chiller d. Blast Freezer d. Blast Furnace

3. Person hired to test food in an air catering facility is called
 - a. Tester
 - b. Analyst
 - c. Microbiologist
 - d. Biologist
4. If liquor is supplied to an airline by the air catering company it is kept inside
 - a. warehouse
 - b. Liquor room
 - c. Bonded room
 - d. Bonded warehouse

3.6 LET US SUM UP :

Food service in an airline is a benchmark of quality for the airline. Food for different airlines are prepared and delivered by designated catering establishments across the globe. The history of catering inside an airplane, started with Handley Page Company serving the first packed meals to the passengers. With time aircrafts underwent huge technological advancements and food service operations became one of the major areas of thrust for these airlines. The concept of kitchens built near the airports were started by United Airlines and soon catering establishments of different airlines evolved. The establishments started experimenting with the food to be served to the passengers. Celebrity Chefs were incorporated by different airlines in the menu planning and design process to provide passengers a dining experience in the sky. The new business model of budget airlines introduced the concept of paid food aboard an airline. Pre-booking and preferences of food were incorporated by airlines in the ticket booking process for passengers. Airline catering establishments follow strict norms and regulations as per the rules of the land and standard operating procedure of the airline. There are strict guidelines that govern the operations of the airline kitchens adopting various measures of different food safety management systems. The Ministry of Civil aviation, India has defined the legal norms and requirements to operate an airline catering establishment in India. Licenses to operate these catering establishments are regulated by the government and establishments have to fulfil all criteria pertaining to grant and renewal of licenses.

3.7 ANSWERS FOR CHECK YOUR PROGRESS :

☐ Check Your Progress 1 :

- (1 – b) Handley Page Transport
- (2 – a) Ryan Air
- (3 – c) Emirates
- (4 – d) Air Baltic

☐ Check Your Progress 2 :

- (1 – a) Cross over
- (2 – b) Blast Chillers
- (3 – c) Microbiologist
- (4 – d) Bonded Warehouse

3.8 GLOSSARY :

Galley : Area inside an aircraft having facility to serve food.

Shilling : Former monetary unit of United Kingdom.

Concorde : Supersonic passenger aircraft that operated between 1976 to 2003

Sushi : Traditional popular Japanese dish.

Supply Chain : Network of all resources, activity and technology involved in a product at all stages.

Protocol : Standard set of rules.

Back Tracking : An algorithmic technique to prevent food from getting contaminated.

Blast Chiller : Equipment that quickly lowers the temperature of food to prevent microbial growth.

pH : Scale used for testing acidity or alkalinity.

TDS : Concentration of dissolved solid particles especially in water.

Gluten : Protein of Wheat.

HRACC : Body for inspection and assessment of different food establishments in India.

3.9 ASSIGNMENT :

Compare different types of menus that are served on 5 leading airlines of the world.

Mention the name of the catering establishment supplying the food to the above airlines as indicated by you and also mention basic details about these establishments.

3.10 ACTIVITIES :

Draw a standard tray set up and layout for some of the courses of meals served in different airlines.

Draw a diagram of the operational flow of the entire supply chain in an airline catering establishment from the procurement of the food ingredient to processing to delivery. Indicate the critical role of all the stake holders involved in the process.

3.11 CASE STUDY :

A Catering company located in close proximity to the airport was catering to approximately 80 flights a day, serving different courses of meals. A particular airline operator was dissatisfied with the services of the catering company. The airline operator had a contract with this particular company and was unable to withdraw food services from this particular company due to the clauses in the contract. There were complaints related to food and service delivery in each flight of the airline operator leading to issues and penalties being imposed by the airline company to the food operator. The same was leading to bad reputation of the catering company and slowly it was impacting business for other airline companies also. The food establishment involved audits being conducted at its

facility from reputed food audit companies and the government agencies. It cleared all the necessary protocols of safety and hygiene and even earned a certificate of repute under different parameters.

1. How shall the food catering company resolve its dispute with the airline company ?
2. Is there a provision for the food catering company to recover the penalties as imposed by the airline company ?
3. Should the food catering company terminate its contract mutually with the airline company to maintain its reputation in the market ?

Legal Requirements for Airline Catering in India

3.12 FURTHER READING :

1. Flight Catering by Peter Jones
2. www.tajsats.com
3. www.skygourmet.com
4. www.civilaviation.gov.in
5. www.tourism.gov.in

BLOCK SUMMARY :

Food is an integral aspect of airline operations internationally. Food reflects the vivid dimension of quality and service that an airline undertakes for passengers. The service of fresh and hygienic food at an altitude is a difficult task and requires a lot of management interventions, technology, skilled manpower and various resources. Catering companies across the globe strive to manage the complex set of operations to satisfy customer needs and the palate. The block provides you with the knowledge of the criticality of safety in aviation food catering. Every catering company associated, incorporates standard operating procedures and protocols of different food safety management systems. Food is handled and processed according to the micro level principles and standards as defined by the system from its point of procurement to its service to the passenger. The block acquaints you with some of the global food safety management systems and their guiding principles being followed by operators. The role of various governments and their regulations related to food across different countries is also elucidated in the block. The block also highlights the Food Safety and Standards Act, 2006 implemented in India for all the stakeholders working in the area of food and food related businesses. The food safety act of the country has been designed on scientific principles and global benchmarks of standards and practices. The block emphasizes the legal requirements and regulations for setting up airline catering business in India and the procedures for obtaining a license for the same.

BLOCK ASSIGNMENT :

1. What are the requirements for establishing an aviation food catering business in India according to the guidelines of Ministry of Tourism, Government of India ?
2. Write in detail about the licensing process for a food business operator in India ?
3. Write in detail about the objectives and features of Food Standards and Safety Act 2006 ?
4. What is a Food Safety Management System ? Discuss HACCP as a critical Food safety Management System with relevant examples ?
5. List some regulatory aspects and practices related to food from different countries of the world ?

HOSPITALITY LAW



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ISBN 978-93-91071-74-5

Edition : 2020

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The content is developed by taking reference of online and print publications that are mentioned in Bibliography. The content developed represents the breadth of research excellence in this multidisciplinary academic field. Some of the information, illustrations and examples are taken “as is” and as available in the references mentioned in Bibliography for academic purpose and better understanding by learner.’

ROLE OF SELF INSTRUCTIONAL MATERIAL IN DISTANCE LEARNING

The need to plan effective instruction is imperative for a successful distance teaching repertoire. This is due to the fact that the instructional designer, the tutor, the author (s) and the student are often separated by distance and may never meet in person. This is an increasingly common scenario in distance education instruction. As much as possible, teaching by distance should stimulate the student's intellectual involvement and contain all the necessary learning instructional activities that are capable of guiding the student through the course objectives. Therefore, the course / self-instructional material are completely equipped with everything that the syllabus prescribes.

To ensure effective instruction, a number of instructional design ideas are used and these help students to acquire knowledge, intellectual skills, motor skills and necessary attitudinal changes. In this respect, students' assessment and course evaluation are incorporated in the text.

The nature of instructional activities used in distance education self- instructional materials depends on the domain of learning that they reinforce in the text, that is, the cognitive, psychomotor and affective. These are further interpreted in the acquisition of knowledge, intellectual skills and motor skills. Students may be encouraged to gain, apply and communicate (orally or in writing) the knowledge acquired. Intellectual- skills objectives may be met by designing instructions that make use of students' prior knowledge and experiences in the discourse as the foundation on which newly acquired knowledge is built.

The provision of exercises in the form of assignments, projects and tutorial feedback is necessary. Instructional activities that teach motor skills need to be graphically demonstrated and the correct practices provided during tutorials. Instructional activities for inculcating change in attitude and behavior should create interest and demonstrate need and benefits gained by adopting the required change. Information on the adoption and procedures for practice of new attitudes may then be introduced.

Teaching and learning at a distance eliminates interactive communication cues, such as pauses, intonation and gestures, associated with the face-to-face method of teaching. This is

particularly so with the exclusive use of print media. Instructional activities built into the instructional repertoire provide this missing interaction between the student and the teacher. Therefore, the use of instructional activities to affect better distance teaching is not optional, but mandatory.

Our team of successful writers and authors has tried to reduce this.

Divide and to bring this Self Instructional Material as the best teaching and communication tool. Instructional activities are varied in order to assess the different facets of the domains of learning.

Distance education teaching repertoire involves extensive use of self- instructional materials, be they print or otherwise. These materials are designed to achieve certain pre-determined learning outcomes, namely goals and objectives that are contained in an instructional plan. Since the teaching process is affected over a distance, there is need to ensure that students actively participate in their learning by performing specific tasks that help them to understand the relevant concepts. Therefore, a set of exercises is built into the teaching repertoire in order to link what students and tutors do in the framework of the course outline. These could be in the form of students' assignments, a research project or a science practical exercise. Examples of instructional activities in distance education are too numerous to list. Instructional activities, when used in this context, help to motivate students, guide and measure students' performance (continuous assessment)

PREFACE

We have put in lots of hard work to make this book as user-friendly as possible, but we have not sacrificed quality. Experts were involved in preparing the materials. However, concepts are explained in easy language for you. We have included many tables and examples for easy understanding.

We sincerely hope this book will help you in every way you expect. All the best for your studies from our team!

HOSPITALITY LAW

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BLOCK 3 : AIRLINE REGULATION LAWS

UNIT 1 LIABILITY OF INSURANCE IN AVIATION

UNIT 2 GOVERNING CRIMES ABOARD AIRCRAFTS

UNIT 3 ENVIRONMENTAL LAWS GUIDING AIRLINES

AIRLINE REGULATION LAWS

Block Introduction :

In the previous block you have studied about food regulation laws as food is an important aspect associated with airlines. In this block you shall study in detail about some of the aspects related to the operations of an airline. Aircrafts are considered to be technologically advanced and complex machines. There is always a considerable amount of risk involved with the operations of airlines. Insurances in airlines are customized and different from other types of vehicle insurances. You shall learn about airline insurances and the laws guiding insurances in the aviation sector in unit 1. Crimes are often common aboard aircrafts and the nature of crimes may include abuse, drunken behaviour, and assault and even hijack. A crime occurring in an International flight mid air needs to be addressed by a country as the flight may land in any country. Unit 2 gives you an understanding of the nature of crimes potentially involved in an airline and how international regulations guide airline companies to resolve these crimes. Environment and airlines are interdependent. With the growing number of airline operations across the globe, the environment is getting impacted in several ways. ICAO, the apex regulating body is working with member countries to minimize the impact. ICAO has implemented several policies, procedures, guidelines, technological changes, research, tool development and many other measures for its member countries to implement. Unit 3 provides an insight into the major areas of impact and how ICAO is working towards minimizing or eliminating the impact.

Block Objectives :

- To understand airline insurance, its types and different mechanisms involved in the insurance process.
- To understand the types and nature of crimes aboard an aircraft and describe ways of mitigation through international regulations.
- To undertake study on how airline impacts environment and the role of ICAO and different countries in minimizing the impact.

Block Structure :

Unit 1 : Liability of Insurance in Aviation

Unit 2 : Governing Crimes Aboard Aircrafts

Unit 3 : Environmental Laws Guiding Airlines

UNIT STRUCTURE

- 1.0 Learning Objectives
- 1.1 Introduction
- 1.2 History of Aviation Insurance
- 1.3 Types of Aviation Insurance
- 1.4 Compensation Under Insurance
- 1.5 The Indian Perspective of Aviation Insurance
- 1.6 Conditions to be Followed by Airlines
- 1.7 Claims Procedure and Other Conditions in Insurance
- 1.8 Travel Insurances
- 1.9 Let Us Sum Up
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- 1.13 Activities
- 1.14 Case Study
- 1.15 Further Reading

1.0 LEARNING OBJECTIVES :

- To describe the evolution and history of aviation insurance.
- To list the types of insurance available for the aviation sector.
- To understand the various mechanisms for compensation.
- To detail the conditions for claim procedure and other conditions related to insurance.

1.1 INTRODUCTION :

Have you ever tried finding out the price of an airliner flying above you in the sky. You would be surprised to know that the price of an aircraft manufactured by Boeing, one of the leading aircraft manufacturers in the world is 90 million USD, for the low end 737 series, globally preferred by a lot of airline companies across the world. The Boeing 777-9 is priced at a whopping 442 million USD. With such an expensive means of transport to operate, the airline industry is under continuous stress for risks and hazardous threats related to technical aspects of operation. Insurances play a major role in mitigating the stress of airline operators and are completely different from other insurances. There are a lot of possible risks in aviation that are assessed and then a specialized insurance is formulated to provide coverage. The Aviation Insurance has its own specific terms and conditions and terminology that are very different from other types of vehicular insurances.

1.2 HISTORY OF AVIATION INSURANCE :

With the Wright Brother's flight of 120 feet and 12 seconds, airlines saw a revolution and a giant leap by the turn of the century. The birth of aviation insurance dates back to 1912 by Lloyds in England. Lloyds were a big insurance firm of the time and the insurers considered aircraft to be unsafe and only insured persons or property that could possibly be damaged by an aircraft crash. The language in the very early airline policies was adapted from marine policies, and these policies referred the aircraft as a "Hull". After the Lloyds policy in this sector, a few other policies related to air travel was undertaken before World War I.

After the 1st World War, aircrafts became reliable source of travel. Insurance companies started venturing into the field of insurance for aircrafts. The Traveller's Insurance Company in 1919, issued the first comprehensive insurance policy and launched the foundation for aviation insurance in the United States. The comprehensive insurance issued covered public liability protection, life insurance, worker's compensation and trip accident coverage. In 1925, Eastern Underwriters dealing in Insurance noted that commercial flying growth rate across the world was slow due to non-availability of insurances as insurance had the notion of

- Accidents over long flying by pilots
- Aircrafts being too expensive
- Exotic acrobatics often undertaken by different pilots.

The insurance industry surged from 1926–27 when the United States government started giving mail contracts to flying companies. Between 1926 to 1930, large financial companies established holding companies for aviation investments. Lot of acquisitions of smaller airline companies took place including parts manufacturers. Around 5 airline companies merged and formed the Aviation Corporation in 1929. There was merger of 12 airmail routes and the American Airways was established. The increase of passenger capacity in newly manufactured aircrafts led to a lot of insurance companies entering the aviation sector by 1935. Since aircraft insurance is a big aspect of cost to be considered, no single insurance company may have the resource or capacity to insure a fleet of airline. A single aircraft accident may be catastrophic and may lead to payment of several million dollars by insurance companies. The London Insurance market is the biggest centre for aviation insurance. There are syndicates that operate with pooled resources from various firms. These insurance markets cater to fleet policies that cover the risks of all the airlines operated by different airline companies.

1.3 TYPES OF AVIATION INSURANCE :

Aviation Insurance you all have come to know is very different from other types of vehicular insurances. The risk factors in aviation insurance is very high and the insurance encompasses both property and liability coverage. Aircraft insurance covers for the losses that happen to the aircraft during an accident as well as to the passengers, cargo and third party property and lives. The 1929 Warsaw convention for the first time laid down the terms, conditions and limitations for travel by air. The types of Airline insurance can be divided as

■ **Public Liability Insurance :**

This type of insurance is also referred to as Third Party Liability. The insurance covers aircraft owners for the damage that an aircraft does to property of a third party. This includes destruction or damage to cars, house, crops, facilities at an airport or also may include another aircraft in event of a mid air collision. Public liability insurance is more or less mandatory in every country of the world and is governed by the legislations of the land. Even objects falling from an aircraft and causing damage are covered under this type of insurance. The liability insurance does not cover damages incurred by the aircraft or any damage suffered by passengers travelling in the aircraft. Third party liabilities often go to courts for a settlement because of a non amicable resolution for settlement between the airline company and the third party.

■ **Passenger Liability Insurance :**

This is a type of insurance that protects the passenger who gets injured in any type of accident that happens during the journey. This insurance is mandatory in many countries of the world and is sold on a per seat basis.

■ **Combined Single Limit Insurance :**

It is combination coverage of public and passenger liability with an overall limit for every accident. The liabilities are subject to contract of carriage like ticket/ airway bill etc and the same borne by the insurer includes

- General legal liability
- Cargo Legal Liability
- Registered Baggage
- Baggage in custody of the Passenger
- Third Party liability
- Mail legal liability
- Passenger Legal liability
- Other public legal liability

■ **Ground Risk Hull Insurance (Not in Motion) :**

This type of insurance provides coverage to damage of an aircraft on ground and not in motion. This insurance can be claimed against hail, storms, floods, winds, mudslides, vandalism , theft etc. The values differ against each contract of insurance.

■ **Ground Risk Hull Insurance (in Motion) :**

This includes all phases of aircraft operation prior to take off and post landing at an airport. It also includes any mishaps when the aircraft is parked.

1.4 COMPENSATION UNDER INSURANCE :

Airlines were earlier governed by the Warsaw convention and the amount for damages for death or injury was capped at 8300 USD per passenger. The same was replaced by the Montreal convention and was revised in 2003 and 2009. India is also a signatory to the convention and adheres to the legislatives laid down during the convention. The convention states "Carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the embarking or disembarking".

Hospitality Law

Article 21 of the Montreal convention states that in event of death or bodily injury to a passenger the maximum amount payable is 113100 SDR. You have already studied that Special Drawing Rights (SDR) is an artificial currency instrument created by International Monetary Fund for internal accounting purposes based on some of the major currencies. For compensation issues higher than stipulated as per the convention, airlines can contest if the mishap is

- Not due to any negligence of the airline
- Not due to the negligence of the staff /agent of the airline
- Was due to negligence solely of a third party

The amounts are decided based on the negotiations by different countries. The limits prescribed are higher caps and passengers may get a lesser amount. The final amount paid to a passenger depends on the insurer, the re-insurer of the airline and the type of contract the airline has with the insurance company.

❑ Check Your Progress – 1 :

1. The first aviation insurance was undertaken by
 - a. Llyods
 - b. Aviation Corporation
 - c. LIC
 - d. Travellers Insurance company
2. Third Party liability type of insurance is also known as
 - a. Private liability insurance
 - b. Public liability insurance
 - c. Passenger liability insurance
 - d. Comprehensive liability
3. In a storm when an aircraft gets damaged at an airport, type of insurance applicable is
 - a. Ground Risk insurance in motion
 - b. Combined Single limit
 - c. Ground Risk insurance not in motion
 - d. None of the above
4. Under Warsaw convention the amount for death or injury in an accident per passenger is
 - a. 7000 USD
 - b. 7500 USD
 - c. 8000 USD
 - d. 8300 USD

1.5 THE INDIAN PERSPECTIVE OF AVIATION INSURANCE :

Indian skies have seen a surge in aviation sector and multiple carriers operate in India connecting every corner of the country. With 100% foreign direct investment (FDI) permitted by the government of India in the aviation insurance sector, there are growing number of insurers keeping pace with international standards. There are more innovative and risk covering facilities being introduced by foreign players in the Indian market. The maximum competition is there in the segment of airlines with less than 61 seats. The jurisdiction for claim in India is governed by the Carriage by Air Act 1972 and allows 5 jurisdictions

- Place of Issue of Airline Ticket
- The main place of business of the aircraft.
- The place of destination of the passenger.
- The place of domicile of the carrier.
- The place of domicile of the passenger.

A few years back in India there were only national insurance players into airline insurance. With Foreign Direct Investment, a lot of private players have entered the Indian market. Industry experts project the airline insurance market somewhere, between, 400 to 500 crore. In India the liability limits for death/bodily injury is Rs 7.5 lac per person above 12 years of age and Rs 3.5 lac per person below 12 years of age.

1.6 CONDITIONS TO BE FOLLOWED BY AIRLINES :

With a lot of hazards and risks to encounter, the airline companies have to undertake a lot standard procedures and adhere to international standards and protocols at all times. Some of the conditions that any airline company has to follow are

- Due diligence at all times are to be taken by all airliners. They are supposed to adhere to all measures as laid down by international standards to prevent and avoid accidents and diminish any loss.
- Airliners are to comply with all air navigation orders and to all orders issued by competent authorities that affect safe operation of flights.
- Airliners must check and ensure that every aircraft is airworthy before undertaking each flight.
- Every airline must fill up all necessary documents and logs as per official regulations before, during and after each flight.
- The airline companies are liable to produce all details and logs as required by insurance companies at any time.
- Compliances related to employees and agents are to be ensured by the airline companies at any time.

1.7 CLAIMS PROCEDURE AND OTHER CONDITIONS IN INSURANCE :

You have learnt about the compliances that any airline has to follow at all times. Claims that are generated in event of an unlikely incident would result in claim to be provided by airline with all related documents and letters as per contract. There shall be no influence or prejudice or detrimental interest of the insurer. The insured shall not make any admission of liability or payment or offer promise of payment without the consent of the insurers.

General exclusions applicable to all sections of Airline policies

There are certain general conditions that do not apply to aviation policies. These exclusions can be enumerated as

Aviation policies shall not be applicable

- To aircrafts that are used for any illegal purposes or other than as stated in a contract between the airline company and the insurance company.
- The aircraft is outside the geographical limits as stated in the contract between the airline company and the insurance company other than due to a forced circumstance.
- The aircraft is piloted by any other person other than as stated in the contract between the airline company and the insurance company.
- The airline is being transported by any other means of conveyance except after any accident.

Hospitality Law

- The aircraft is landing or taking off or attempting the same from an area that is not specified except in case of forced circumstances.
- The contractual liability is adhered to by the airline company by issuing airline tickets, airway bills etc for passengers or goods.
- The total number of passengers carried by the aircraft exceeds the declared number of passengers by the carrier.
- Claims arising out of war, hijacking and other perils that are not mentioned in the contract with the insurance company.
- Claims arising out of nuclear risks that are not mentioned in the contract with the insurance company.
- Claims arising out of any non aviation risks that are not mentioned in the contract with the insurance company.

General exclusions applicable to all sections of Airline policies

In all airline insurances there are certain general exclusions and the following are the conditions to all the sections and categories of the insurance.

- The insurance company is entitled to take absolute control of all the proceedings for settlement or defending or pursuing any claim. The same is referred to as Claims control.
- In terms of the payment being disbursed by the insurer the insured shall do all things that are necessary to assist the insurer as per the rights and remedies of the insured.
- In event of any change of circumstance of nature or risk that is the basis of a contract, the insured shall have to give an immediate notice for the same. There shall be no claim due to changes that are recoverable.
- The cancellation of any airline policy is subject to clauses as mentioned in a contract between the insurance company and the airline.
- All the assignment of policies shall always be endorsed by the insurer.
- In event of 2 or more aircrafts are being insured by the same insurer, the terms and conditions apply separately to each aircraft.
- The limit of liability is as per the contract and indemnity stated in the policy.
- For any claims that are considered to be false or fraudulent, the insurance becomes void and all claims forfeited.

1.8 TRAVEL INSURANCES :

Travel insurance is a type of insurance that passengers purchase while booking their tickets for air travel. Travel insurance can be for domestic as well as International travel. Travel insurances are designed specifically for any losses or costs incurred by the passenger during travel. There are a lot of travel insurance companies that design packages catering to different airline companies. Each travel insurance is for particular time duration and a specific premium is charged per trip normally for airline travel insurance. The price of travel insurances vary with the service provider, coverage and exclusions. The coverage can be either for a single trip or may involve multi trip also. Travel insurances normally cover the following aspects for domestic and International travel

- Loss of Baggage
- Personal Liability
- Personal Accident
- Trip curtailment
- Trip Cancellation
- Medical Treatment due to accident
- Flight delay
- Trip delay
- Emergency travel
- Loss of Passport
- Delay in Checked in Baggage
- Hijack daily allowance

☐ **Check Your Progress – 2 :**

1. Jurisdiction for claims for aviation accidents in India is governed by
 - a. Carriage by Air Act 1972
 - b. Carriage by Road Act 1972
 - c. Anti Hijacking Act
 - d. Consumer Protection Act
2. Insurance Policy for airlines is not applicable if
 - a. Airlines is outside the geographical limits other than contract
 - b. Aircraft is piloted by any other person other than contract
 - c. Aircraft is used for illegal purpose
 - d. All the options
3. In event of two aircrafts of same airline being insured
 - a. One insurance for both is sufficient
 - b. Both can have 50% insurance
 - c. Both aircrafts need to be separately insured
 - d. Insurances are not required by any aircraft
4. Travel Insurances cover
 - a. Trip Delay
 - b. Flight Delay
 - c. Baggage loss
 - d. All the options

1.9 LET US SUM UP :

Aviation Insurance dates back to 1912 when the first insurance was undertaken. Insurers during that time considered airline as an unsafe mode of transportation. The long flying hours by pilots couple with aircrafts being too expensive and complex technological machines were major deterrents for insurance companies to enter the sector. The lack of insurance companies also led to a slow growth in the aviation sector. The introduction of airmails led to several companies joining hands together for insurances. Aviation Industry is highly susceptible to risks and threats in relation to complexity of the technical operation of an aircraft. Aviation insurance is a specialized insurance and is tailor made to suit different needs pertaining to the airline. There are a wide range of aviation insurances having a cover for different aspects of the airline and its operations. The conditions and the norms followed by each airline company in terms of

insurance are guided by global laws as well as laws of the countries from where the insurance contract is undertaken. The clauses included in the specific contracts between insurance companies and airline companies decide the nature of the policy, the amount for claims and finer compliances as agreed upon.

1.10 ANSWERS FOR CHECK YOUR PROGRESS :

❑ **Check Your Progress 1 :**

- (1 – a) Llyods
- (2 – b) Public liability insurance
- (3 – c) Ground risk insurance not in motion
- (4 – d) 8300 USD

❑ **Check Your Progress 2 :**

- (1 – a) Carriage by Air Act 1972
- (2 – d) All the options
- (3 – c) Both Aircrafts need separate insurance
- (4 – d) All the options

1.11 GLOSSARY :

Holding Company : Parent company controlling interest in subsidiary company.

Indemnity : Security or protection against a loss or other financial burden.

Void : Having no legal effect.

Endorse : Approval or Support.

Claim : Demand for something due.

1.12 ASSIGNMENT :

1. List 5 Travel Insurance companies operating in India.
2. Make a comparative of the coverage's undertaken by these travel insurance companies for a single trip/multi trip for domestic travel.
3. Indicate the cost offered by each company for different type of trips.

1.13 ACTIVITY :

1. List 10 global aviation insurance companies of the world indicating their country of operation.
2. List the type of insurances offered by these companies to the aviation industry.

1.14 CASE STUDY :

A passenger misses his connecting flight due to delay in the incoming flight in which he was travelling. He somehow reaches the departure terminal only to be informed that the next available flight to his destination is on the following day. The passenger is provided an option to be accommodated in the flight but the airline company denies any accommodation facility to the passenger. The passenger has a valid insurance for his trip. He manages to stay at a hotel at his own cost for the night but meets with an accident on the road due to which he

is hospitalized. He informs the airline company regarding the same as his checked in luggage was booked from the source of his journey.

- a. Is the passenger liable to get compensation for the hotel booked by him through the airlines ?
- b. Is the insurance that the passenger purchased cover him for the medical emergency as he was on transit and had to stay at a destination forcefully due to delay by the aircraft ?
- c. Is he eligible to be compensated for any other aspect according to his insurance ?

1.15 FURTHER READING :

1. Introduction to Aviation Insurance and Risk Management by Alexander T Wells
2. Aircraft Insurance Fundamentals by Tim Bonnell Jr
3. Aviation Insurance by Peter J.C. Viccars
4. www.wikipedia.org

UNIT STRUCTURE

- 2.0 Learning Objectives**
- 2.1 Introduction**
- 2.2 Nature of Crimes on Board an Aircraft**
- 2.3 The Threat Perspectives**
 - 2.3.1 Unruly or Disruptive Passengers**
 - 2.3.2 Sexual Misconduct**
 - 2.3.3 Possession of Dangerous Objects and Hijacking**
 - 2.3.4 Human Trafficking**
- 2.4 Principles of Jurisdiction**
 - 2.4.1 Principle of Nationality**
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 - 2.4.4 Principle of First Landing**
- 2.5 The Tokyo Convention**
 - 2.5.1 Regulations as per the Tokyo Convention**
 - 2.5.2 Norms to be followed by Contracting Countries as per the Tokyo Convention**
 - 2.5.3 Powers of the Aircraft Commander**
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- 2.7 Let Us Sum Up**
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- 2.11 Activities**
- 2.12 Case Study**
- 2.13 Further Reading**

2.0 LEARNING OBJECTIVES :

- To list and understand the different types and nature of crimes aboard an aircraft.
- To understand the threat perspectives posed by various types of offences and crime on board.
- To describe the different principles of international jurisdiction governing crimes on board.

2.1 INTRODUCTION :

The ease of travel in an airline has bridged distances and reduced travelling time. The manifold increase in passenger movement and connectivity to different cities across the globe has led to people easily moving from one part of the globe to another. The safety of Passengers travelling in an aircraft, the safety of materials, the aircraft itself and the crew are of paramount importance to every country and operators of airlines flying these aircrafts. In this unit you shall be acquainted to various incidents and external causes that jeopardize the safety of passengers on board an aircraft and the entire aircraft itself and the legal measures adopted to tackle such threats and neutralize them. You may have read about disruptive passenger behaviours, unruly behaviour of passengers, threats and attempted attempts of hijack, hijacks and even organized terrorist activities on aircrafts. These incidents have led to change in policies of different countries in tackling such situations and ensuring a safe journey for all involved.

2.2 NATURE OF CRIMES ON BOARD AN AIRCRAFT :

On a Thai Airways flight from Bangkok to Heathrow, a passenger got drunk and on being refused further service of alcohol, the passenger emptied the refuse bin of the lavatories on the floor of the aircraft, manhandled the cabin crew and passengers, tried entering the cockpit and created a situation that endangered the lives of passengers and the aircraft. The passenger on arrival was handed over to the authorities and was sentenced to a year of imprisonment. Incidents cited above have become a regular feature of travel and regulations are being ensured so that these incidents can be combated easily without jeopardising the safety of the passengers, crew and the aircraft. The nature of crimes in an aircraft can be diverse and if enumerated can comprise of

- Unruly Passengers
- Abusive Passengers
- Drunk Passengers
- Passengers inflicting assault on Crew
- Armed Assaults
- Sexual Assaults
- Internal rage and fight between passengers
- Possession of Dangerous Goods and Objects
- Possession of Contraband Substances
- Administering Contraband substances
- Smoking aboard an aircraft
- Passengers not obeying Safety guidelines
- Hijacking or ploy for activities leading to hijacking
- Act of Terror
- Human Trafficking

The above situations in an aircraft with so many passengers on board may lead to situations that can put lives of people at stake and can also be detrimental to the aircraft. These situations are considered as crimes and are dealt differently involving a coordination between the Commander of the aircraft, the airline crew,

the ground staff, passengers and the authorities at the ground where the aircraft lands. You shall now be acquainted to each of the situations and shall also be given a perspective of the airline laws as per the Tokyo Conference and the Montreal Conference that countries adhere to.

2.3 THE THREAT PERSPECTIVES :

Threat perspectives are those multiple situations that lead to an offence. Understanding various threat perspectives can help crew members to act accordingly before the threat turns in to an offence.

2.3.1 Unruly or Disruptive Passengers :

In October 2011, aboard an Air Canada flight from Edmonton to Toronto, a passenger started becoming loud and disruptive. The crew repeatedly requested him to calm down but the passenger became more abusive. He was consuming Vodka which brought in his handbag and even lit a cigarette. The crew on their attempt to confiscate were manhandled by the passenger. The matter was reported to the commander of the aircraft who diverted the flight to Winnipeg, made an emergency landing and got the man arrested. As per Canadian law, he got a bail, however, he was banned from flying Air Canada for a life time. Unruly passengers or often known as "Disruptive Passengers "are a growing concern for all airlines across the globe. There are more than 70,000 registered cases of unruly passenger behaviours on board an aircraft often leading to assault and fights. An aircraft is considered to be one of the safest medium of travel across the globe, however, there is a growing concern of unruly incidents by a very small amount of travellers disrupting passengers, crew, often causing unnecessary delays and diversions and threatening the safety of everyone. The offences committed on aircrafts often do not lead to any legal action due to a lot of loopholes existing in the system prevalent in different countries. A lot of agencies like IATA are pushing forward strict norms to be implemented by the administration of different countries to curtail the problems.

An unruly passenger is one who by the intent or action creates a situation that may risk the safety of an aircraft, people or property. To better understand and combat the problem International Air Transport Association (IATA) has created a series of examples that are considered to be unruly behaviour of a passenger. The list includes

- Verbal arguments with crew members and passengers. Often Verbal exchanges over small issues inside an aircraft lead to situations where use of words not permissible are exchanged leading to chaos. The situation affects other passengers and their travel too and is detrimental for the reputation of the airline.
- Physical Confrontation with Crew Members and Passengers. This has become very common among passengers and especially on long haul flights that serve liquor to passengers. Physical confrontations have often led flights to take a detour and initiate appropriate action against passengers. The same have often led to unnecessary delays and problems to other passengers as well. There are reported incidents of fights among crew members too leading to chaotic situations.
- There are a lot of passengers who often do not cooperate with the instruction of the crew members often leading to situations of verbal confrontations, physical abuse and flights getting delayed for proper

actions. Often passengers have been restrained on International flights on charges of non cooperation with crew members to ensure a safe flight for other passengers.

- Consumption of Alcohol/ Narcotic substances. Majority of incidents involving riotous behaviour and physical abuse have its source in either consumption of alcohol or substances that are banned. A lot of incidents happen when crew members refuse to serve more alcohol to passengers who they feel has either consumed more than the accepted limit or are inebriated. Refusals often lead to verbal duels, threats and physical abuse.

2.3.2 Sexual Misconduct :

Sexual Misconduct is one grey area where cases have been on the rise. Incidents of sexual abuse have more than doubled in a span of few years. The Incident has been reported by many passengers and also by a lot of crew members. Cases related to the same often do not come in the limelight due to a lot of reasons, however, laws of every country have become strict to prevent occurrence of such incidents inside an aircraft. Many countries have created task forces and amendments in their laws. Task forces have directed each airline to formulate standard procedures and protocols related to sexual abuse according to the law of the land. Sexual abuse is on a zero tolerance priority with a lot airline across the globe and proper training programs are being designed and imparted to crew members to curb the menace.

2.3.3 Possession of Dangerous Objects and Hijacking

Possession of dangerous objects is deterrent for safety of passengers and crew and may eventually lead to a threat to the aircraft. There have been incidents where objects allowed by ground security to be carried inside the aircraft became objects of threat for the entire aircraft. Though there are International restrictions and a list of articles that are displayed and cannot be carried inside an aircraft. There are subsequent screenings for the same at different airports, however, a lot of objects become a source of potential threat.

Hijacking of an Aircraft is also referred to as unlawful seizure of an aircraft by an individual or a group with an intent or motive. Hijacking is a big perspective and has a lot of motives, ranging from personal to political to asylum seeking, behind such an action. Hijackings might occur for ransoms, for political motives and has been also used as destruction. You may have heard about the hijacking of September 11, 2001 when four American aircrafts were hijacked by extremists. Two of the aircrafts crashed at the Twin towers of the World Trade Centre, one crashed at the Pentagon and the fourth one crashed in a field. The incident was devastating for the world as 3000 people were killed and thousands injured. On 24th December 2004, Indian Airlines flight IC 814 from Nepal to New Delhi was hijacked and flown over several destinations before making a forced landing at Kandahar in Afghanistan. The entire incident happened with political and extremist motives and passengers were kept hostage for 7 days. Aircraft hijacking is considered as a crime against humanity and the government of India has strict norms against all acts of hijacking which you shall be acquainted to later in this unit.

2.3.4 Human Trafficking :

Human Trafficking is a heinous crime and is considered as one of the fastest growing crimes in the world. Airline business globally can be affected by this

serious offence in terms of transportation of people for slavery. The responsibility of tracking and taking action lies with the governments of various countries, however, a candid approach taken by the airline industry can also help to prevent this crime. A lot of staff members and crew members at different locations are being trained on tracking potential trafficking situations. They are trained to be alert and report any signs of trafficking to the concerned authorities. IATA is working with various stakeholders and airports to raise the issue and create awareness and prevent the heinous crime.

2.4 PRINCIPLES OF JURISDICTION :

You have now come to know about certain types of crime that may happen in an aircraft during its course of flight or when on the ground. International laws related to prevention of these crimes are complex. Let us take an example to understand the situation.

A flight going from Sri Lanka to Nepal is threatened by two people. They take some passengers as hostage and to fulfil their motive, they direct the crew members to tell the pilot to land somewhere in Afghanistan. The aircraft is registered in Singapore but is leased to an Airline company in Taiwan for operations. The airline company operating the flight is registered in Taiwan. The pilot on receiving information from the crew members alerts the Air Traffic control of the nearest airports and briefs them about the emergency situation. The flight is cleared for landing at Chennai Airport in India. As the flight lands, emergency response procedures are adopted and the hijackers are overpowered and arrested by the Indian security forces. On questioning it is found that the hijackers are Afghan nationals bearing passports of Afghanistan. In this situation the prosecution of the intended hijackers become a challenge. The government of India cannot book them under the hijacking laws of the country nor can they be admitted or produced in any court of law in India for the crime committed.

In this unit you shall learn about International norms and principles related to jurisdiction primarily under the Tokyo Convention and how countries are able to resolve difficult situations as mentioned in the example.

2.4.1 Principle of Nationality :

The Principle of Nationality suggests that crimes committed in an aircraft that is flying over International territory, the jurisdiction of the crime should be in purview of the country to which the aircraft is registered. The prosecution of the crime should be done by the country in which the aircraft is registered. The principle is often denied by a lot of countries.

2.4.2 Principle of Territoriality :

Airlines have the flags of the country they are flying for and the Principle of Territoriality suggests that any crime undertaken in an aircraft carrying the flag of a designated nation is a direct threat to the sovereignty of that nation. The threat to the aircraft is taken as a consideration of threat to the nation and jurisdiction of crimes as the theory suggests are to be undertaken by the flag bearing country. However, there are a lot of controversies associated with the principle.

2.4.3 Principle of Universality

The Principle of Universality focuses on the severity of the crime rather than the territory. The principle gives power to claim for jurisdiction for severe or heinous crimes committed on the aircraft. The principle too has been

challenged with lot of complex problems associated to legal frameworks of various countries.

2.4.4 Principle of First Landing :

The Principle of First Landing was a practical solution that was proposed where the country in which the aircraft lands first after the commitment of the crime claims jurisdiction. However, countries are bound by International treaties and often require a lot of diplomatic intervention prior to such jurisdiction.

2.5 THE TOKYO CONVENTION :

The Tokyo Convention is an International treaty signed by 186 member countries since 2015. The convention was first held in 1969 with an objective of undertaking a uniform measure across different countries for crimes and offences committed on board an aircraft. The convention is a multilateral agreement or contract between different countries that focus on the safety of persons and property on board an aircraft. The scope of the convention is related to the acts committed in an aircraft that jeopardize the safety of the aircraft, persons and property. The Tokyo Convention is applicable only for International civilian aircrafts registered in a contracting country and is in flight.

2.5.1 Regulations as per the Tokyo Convention :

According to the Tokyo Convention the following regulations are to be followed by member countries that have signed the contract. They are as

- The country of registration of an aircraft can exercise jurisdiction over offences and crime committed on board an aircraft.
- The countries that have entered into a contract according to the Tokyo convention can take necessary action for the crimes committed. Jurisdiction can be established by a contracting country in coordination with the country of registration of the aircraft.
- If a criminal offence in an aircraft has been committed and the same has an effect on the territory of a particular country, the country can also exercise its criminal jurisdiction procedures apart from the country of the registration of the aircraft.
- If a criminal offence is committed by a citizen of a particular country or is against a citizen of a particular country, the country bearing the nationality of the person in both cases can exercise its jurisdiction apart from the country of the registration of the aircraft.
- If an offence committed on board an aircraft, breaches the security of a particular country and the country is part of the contract under the Tokyo convention, jurisdiction can be claimed for the crime by the country apart from the country of registration of the aircraft.
- When a criminal offence pertains to breach in rules and regulations related to operations of an aircraft and the aircraft is forced to land in a particular country under hostile the circumstances, the country of landing can claim jurisdiction if it is a part of contract under the Tokyo convention.

2.5.2 Norms to be followed by contracting countries as per the Tokyo Convention :

There are often multilateral agreements between different countries on several criminal legal aspects. In regard to the Tokyo Convention agreement

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between contracting countries, there is a substantial amount of protocol to be adhered by member countries, in dealing with offences on board an aircraft. The norms that are to be followed according to the conference and treaty, by member countries, in event of a crime, offence or situation that may endanger the safety of people, goods and the aircraft are

- Contracting countries shall allow the commander of an aircraft registered in another member country under the Tokyo Convention to land and disembark any person.
- The contracting country of landing shall take custody of any person suspected of an act that endangers life and property and shall initiate proceedings.
- The contracting country of landing that takes custody shall make a preliminary report and immediately furnish the same to the country of registration of the aircraft. Notification regarding the custody of detained person is forwarded to the country where the aircraft is registered and to the country the person is a citizen.
- Persons who are disembarked in a contracting country by the commander of an aircraft on grounds of suspicion and no offence is proved against the person, the contracting country taking custody shall deport the person to either the country of commencement of journey by the person or to the country the person is a permanent resident. However, in both the cases the country taking custody has to prepare a report and furnish it to concerned countries.
- Contracting countries under the Tokyo convention shall not admit persons disembarked by an airline into their country and shall follow the laws of its land for entry into the country.
- Any person disembarked by an airline in a contracting country under suspicion, shall be allowed to continue the journey to any other country of destination until there is substantial evidence of criminal activity or extradition clauses applicable and initiated against the person.
- Contracting countries shall adhere to due diligence of procedures, safety and other interests of air navigation. There shall be no delay of the aircraft, passengers, crew or cargo in event of a passenger is disembarked by an airline.

2.5.3 Powers of the Aircraft Commander :

The Commander of an aircraft is the supreme authority in event of any incident that occurs in an aircraft during its flight. The commander of an aircraft has been given powers to handle situations aboard an aircraft under the Tokyo Convention. Some of the powers of the commander are

- According to Article 6 of the Tokyo convention, when a person intends to commit or has committed an offence and the commander of an aircraft has reasonable grounds to believe, that such action may put the safety of people, property and the aircraft in danger, restraint can be initiated under the direction of the commander to maintain order and discipline.
- The commander of the aircraft can authorize crew members or passengers to assist in the process. In event of an immediate action and intervention, preventive measures of restraint can be initiated by crew members and passengers without authorization and the same notified to the commander.

- In event of restraint being initiated against a passenger, it shall be the duty of the commander of the aircraft to inform the authorities of the country where the aircraft undertakes a landing.
- Commanders of aircraft, passengers and crew under the convention have immunity against any legal prosecution at a later stage in event of an act of restraint.
- Article 8 of the Tokyo convention states that if an aircraft is flying between two destinations with a stopover destination in a different country, a person restrained can be disembarked by the commander at the country of stopover. The commander needs to report the same to the authorities of the country where the person is disembarked and also to the country of registration of the aircraft.
- Article 9 of the convention states that a commander of an aircraft in event of a situation where a person has been restrained, can land in any contracting country and handover the restrained person on grounds of crime committed on board the aircraft leading to serious offence.
- Article 11 of the convention highlights the aspect of unlawful seizure of an aircraft by a person with force or threat and interferes with the operations of the aircraft, trying to take control; the commander of the aircraft can land the aircraft in any contracting country to preserve the control of the aircraft. The contracting country where the aircraft lands shall undertake necessary action against the person and permit passengers and crew to continue the journey as soon as possible.

2.6 ICAO PERSPECTIVE OF AIRLINE SECURITY :

The ICAO works as a watchdog for the aviation Industry for all its member countries working on strategy formulation, policy making and implementation in diverse fields concerning the aviation Industry. With the complex intertwining of various factors that pose a threat continuously to the security of airline travel, ICAO has been advancing in technological research, coordination and guidance to all the member countries to tackle situations that may be detrimental to air travel. Some of the initiatives of ICAO concerning the security aspect of the airline industry are

- Organizing forums and conferences for member countries to discuss any security issues that are a matter of concern globally and working on possible solutions.
- Technology is key to operations of civil aviation across the globe. In today's scenario airline ticketing, flight operations, passenger movement, air navigation, air traffic control, communication, ground operations, security, cargo movement and other aspects pertaining to the operations are based on technology and the use of cyber space. Hacking into cyberspace has been a concern for airline operations and cyber security has become one of the key aspects of the security element. Cyber reliant technology increases safety and efficiency of airline operations but possess a high risk of breach by hackers globally. ICAO works on a committed effort in developing a robust cyber security framework. At 40th session of the ICAO council meeting, the body adopted a resolution on cyber security in civil aviation and urged all the member countries to adopt the ICAO cyber security strategies.

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- ICAO is working continuously on Minimum Resolvable Temperature Difference (MRTD) under its TRIP strategy program. MRTD technology is associated with face recognition, identification of documents and uniquely identifies individuals through a database connection globally. The system ensures the highest possible degree of security, certainty and efficiency by eliminating any human security hazard at the source. The ICAO has been working with member countries for the necessary technology, systems, tools and has been instrumental in forming policies regarding the same.
- The Global Aviation Security Plan (GASeP) of ICAO works towards identification of potential risks across different countries related to aviation, enhances risk awareness and responses across member countries, develops a security culture among all the member countries, develops human capability continuously to mitigate all potential risks and hazards, increase cooperation and support across member countries.
- The ICAO has a Aviation Security Policy (ASP) in place that is strategic to aviation security and is followed by all the member countries. The security policy encompasses
 - i. Continuous development of new and amended Standards and Recommended Practices also known as SARPs for all its member countries.
 - ii. Strategically implements the Aviation Security Program known as AVSEC among all its member countries.
 - iii. Updates the ICAO manual on a regular basis for safeguarding civil aviation against acts of any unlawful interference.
 - iv. Works with different expert committees across the globe on diverse technical aspects of security. Recently ICAO was working with a technical committee for plastic explosives and how the risk of such explosives can be mitigated in aviation.
 - v. ICAO undertakes Security audit programs for all its member countries and provides feedback for necessary recourse in event of non compliance.
 - vi. Undertakes conflict zone risk assessment and measures with member countries.

☐ Check Your Progress :

1. Jurisdiction of crime in purview of country to which the aircraft is registered is known as
 - a. Principle of Nationality
 - b. Principle of Territoriality
 - c. Principle of first landing
 - d. Principle of Universality
2. Principle of Universality focuses on
 - a. First Landing
 - b. Severity of Crime
 - c. Territory
 - d. Nationality
3. The Tokyo convention was first held in _____.
 - a. 1967
 - b. 1968
 - c. 1969
 - d. 1970
4. According to the Tokyo convention jurisdiction of offences is priority of
 - a. Country of landing
 - b. Any country
 - c. Airspace of Country of offence
 - d. Country of Registration of aircraft

5. MRTD technology is associated with
 - a. Eye Screening
 - b. Finger Scan
 - c. Body Scan
 - d. Face Recognition
6. Identifying Potential risks across different countries related to aviation is undertaken by ICAO through
 - a. Global intelligence plan
 - b. Global Aviation Protocol
 - c. Global Aviation Security Plan
 - d. None of the options
7. Aviation Security program of ICAO is called
 - a. AVSEC
 - b. AVSAC
 - c. ASVAC
 - d. ACSAV

2.7 LET US SUM UP :

There are different types of crimes that may be a potential source of danger for passengers, crew, cargo and the aircraft. A lot of agencies work round the clock in different countries to keep the aircraft safe on the ground and in the air. With an increase in air traffic and more flights taking a global route, it is difficult to apply the law of land when crime happens in the air. For flights operating within a particular country the law of the land is applicable but for an international flight a situation of crime may happen in the airspace of a different country. The Tokyo convention of 1969 was undertaken with an objective to formulate uniform measures across different countries of the world for crimes and offences committed on board an aircraft. The regulations of the Tokyo convention and the norms enacted, work as a base for dealing with crime on board an airline across all its member countries. The ICAO, works on various strategic policy design aspects and its implementation in coordination with member countries , mitigating threat perspectives to the aviation industry.

2.8 ANSWERS FOR CHECK YOUR PROGRESS :

- (1 – a) Principle of nationality
- (2 – b) Severity of crime
- (3 – c) 1969
- (4 – d) Country of Registration
- (5 – d) Face Recognition
- (6 – c) Global Aviation Security Plan
- (7 – a) AVSEC

2.9 GLOSSARY :

Threat : Person or thing likely to cause danger.

Cyber Security : Technique of protecting computer, network, program and data from unauthorized access or attacks.

Seizure : Take possession of

Disembark : Leave an aircraft

Prosecution : Institution and conducting of legal proceedings against someone.

Territory : Area or land under the jurisdiction of a State.

Heinous : Wicked

Inebriated : Intoxicated

2.10 ASSIGNMENT :

In event of a hijacking situation, the commander of the flight registered in Singapore, lands in India.

List the actions that the Government of India can take undertake according to the Tokyo convention.

2.11 ACTIVITIES :

List the various types of technology and their functions implemented at various airports across the globe to prevent any mishap on board an aircraft.

2.12 CASE STUDY :

On grounds of an alarm of potential threat, raised by a co passenger seated next to a person, just before take of a flight, the man was deplaned forcefully and detained. On questioning it was found, that the person was very worried about his ailing father and was paying a visit to him. He was calling different persons frantically through his mobile to look after his father and admit him to a hospital. As he was speaking in his native language, the co passenger did not understand the same and made a perspective of potential threat through the body language. The deplaned person missed his flight and was not able to reach to his ailing father on time.

1. How should have the airlines reacted before deplaning the person ?
2. Since the person is not guilty of any crime or offence, what is the responsibility of the airline according to the Tokyo convention ?
3. How can such misunderstandings be prevented from victimizing an innocent ?

2.13 FURTHER READING :

1. Jurisdiction of Crimes on Board Aircraft by Shami Shubber
2. [www. Springer.com](http://www.Springer.com)
3. www.iata.org
4. ww.icao.int

UNIT STRUCTURE

- 3.0 Learning Objectives**
- 3.1 Introduction**
- 3.2 The ICAO Perspective**
 - 3.2.1 Climate Change and Aviation Emission**
 - 3.2.2 ICAO Environmental Protective tools for Aviation**
 - 3.2.3 ICAO Participation with Member Countries for Environmental Protection**
 - 3.2.4 Committee for Aviation Environmental Protection (CAEP)**
- 3.3 Airport Noise**
- 3.4 Water Pollution**
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- 3.6 Technological Changes and Innovation**
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- 3.8 Let Us Sum Up**
- 3.9 Answers For Check Your Progress**
- 3.10 Glossary**
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- 3.12 Activities**
- 3.13 Case Study**
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3.0 LEARNING OBJECTIVES :

- To understand the standards, measures and norms as implemented by ICAO in minimizing the impact to environment by airlines.
- To undertake study on how airline impacts climate change and the role of ICAO in controlling the same.
- To list environmental protection tools implemented by ICAO globally and committees formed to curtail the impact.
- To understand fundamentals of noise and water pollution undertaken by airlines and list measures to curb the same.

3.1 INTRODUCTION :

Aviation has evolved as a global medium of transport and has reduced distances, bringing the world closer and together. With increased number of flights around the globe, commercial flying accounts for approximately 2.5% of global carbon emission and the numbers are steadily increasing with addition of more flights. When the Swedish environment activist Greta Thunberg calling for

greater action against climate change and calling for a ban on air travel; the global agency IATA (International Air Transport Association), representing 300 airlines, have involved industry stakeholders to justify how the industry is working towards reducing the impact on environment. Beside safety issues environmental pollution is a big issue for aircrafts operating around the globe. The ICAO with the entire member countries have agreed to work on environmental concerns and primary objectives outlined by the ICAO are being pursued by member countries to put forward the measures for a new global environmental sustainability plan. The 22nd convention of ICAO council held in March 2021 at Montreal, discussed on aspects related to emissions and environment apart from resurgence of aviation from impact of Covid, gender equality and remotely piloted aircraft systems.

3.2 THE ICAO PERSPECTIVE :

The ICAO and its member nations have concentrated their collaborative endeavour towards environmental avenues focussing on 3 core areas that are

- Climate Change and Aviation emission
- Aircraft noise
- Local Air Quality

3.2.1 Climate Change and Aviation Emission

There has been decline over the past decade in emission particularly over long distance air routes. It is said that more than 80% cities are exposed to emissions resulting from fossil fuel. Aircraft engines are responsible for gases, noise and particles of hydrocarbons and sulphur oxides that raise concerns for the air quality effect. Aircrafts emit Carbon dioxide gas, Nitrogen oxides, condensation trails (vapour trails produced by aircraft engines) and various particles that are primary sources of green house effect. With fuel efficiency in aircrafts increasing from 1967 onwards till today by 70%, aviation emissions are drastically on the rise due to increased air travel. It is projected that by 2050, airline emissions would touch 300%. Jet Airliners fly in between the Troposphere and Stratosphere of the Earth and contribute to climate change by the following ways.

- Carbon dioxide emissions are the most significant gas emitted and one of the major contributors to climate change. Carbon dioxide is a green house gas and apart from airliners, it is generated by vehicles and powerful machines operating at any airport. Carbon dioxide is also generated by aircraft manufacturing units.
- The release of Nitric oxide and Nitrogen dioxide leads to in the Troposphere of the Earth leads to increased formation of Ozone which in turn has more global warming effect.
- Combustion of fuel in an aircraft releases water vapour. This water vapour condenses at high altitude as line clouds known as condensation trail. This condensation trail may lead to formation of Cirrus clouds leading to higher global warming effect.

With the objective of minimizing the ill effects of aviation on global climatic scenario, ICAO formulates policies and implements Standards and Recommended Practices (SARPs) and also conducts activities related to its programs. The activities are conducted by the committee on Aviation and Environmental Protection (CAEP). ICAO also coordinates with United Nations

and other bodies and organizations to develop programs and implement to reduce the effect of climate change by airlines. To achieve its goal on 2% annual fuel efficiency improvement by 2050 and carbon neutral growth measures like improvement in aircraft technology sustainable fuels, improvement in operations and measures has been implemented. Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) is a scheme culminated at ICAO in association and support of the industry. It is focussed on stabilizing carbon dioxide emissions through offsetting norms. ICAO in 2019 worked towards reporting carbon dioxide emissions by aircraft operators to their respective national authority greater than 10,000 tons. These reports are to be verified by a 3rd party and governments of that country shall decide on the offset credits to the airline. The rules are essential for countries and airlines adhering to the norms of the CORSIA. The agreement of CORSIA is one of the foundation pillars of strategy to reduce emissions. The Industry is working towards 50% reduction of emissions by 2050 through multiple strategies.

Apart from CORSIA the aviation industry is working on Sustainable Aviation Fuels (SAF). The assembly of ICAO through a resolution A40-18 in 2019 ratified the need for SAF that would be viable economically, socially and acceptable by the environment. Countries have been urged to work on alternative fuels that would give a lot of importance to biodiversity, its conservation of ecosystems and adhere to international and national regulations. The CAEP has created a fuel task force that has been working on development of processes and methodologies for conservation of SAF. A lot of studies are being undertaken by ICAO with its partnering nations.

A lot of operational measures are being standardized by ICAO to reduce emissions. Studies are being conducted at individual airports to reduce emissions and fuel burn; implement and monitor a large range of activities that includes flying of aircrafts, traffic management system, and airport activities etc. Air traffic optimization at busy airports developed by ICAO like Global Air Navigation Plan and Aviation System Block Upgrade (ABSU) lead to prevention of unnecessary green house gas emissions. The document 10031 of ICAO "Guidance on Environmental Assessment of Proposed Air Traffic Management Operational Changes" provides help in decision making process in Air Traffic Management to countries, airport operators, air navigation service providers and all stake holders to implement surveillance, air traffic management system, new communication systems and navigation systems that are effective to reduce fuel burn and unnecessary emission.

The document 10031, "Guidance on Environmental Assessment of Proposed Air Traffic Management Operational Changes" provides countries, airport operators, air navigation service providers and all stake holders in decision making related to air traffic management. The document urges countries to implement better surveillance systems, communication systems and navigation systems that lead effective management and reduces fuel burn and unnecessary emission.

3.2.2 ICAO Environmental Protective tools for Aviation :

These are also known as E Tools that support countries across the globe for developing and implementing Carbon offsetting. The tools are modern environmental management systems used by different nations and airline companies to check the impact of airline pollution and mitigate potential risks. Some of the tools used are

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- **Green Meeting Calculator** – This is decision making software that provides various indicators on carbon emission by aircrafts and helps in control and reduction.
- **Fuel Saving Estimation Tool** – The tool also known as IFSET is designed by ICAO along with the member countries and aligned to the Global Air Navigation plan to provide operational benefit and assistance.
- **Environmental Benefit Tool** – The tool is used by airlines in mitigating measures that can control environmental damage and generate expected results.
- **Mac Curve Tool** – This is a tool devised to select justifiable measures to reduce Carbon emission through effective decision making.
- **ICAO E Learning Programmes** – These programmes are designed for member countries to build awareness designed by United Nations Institute for Training and Research in collaboration with ICAO. The modules sensitize member countries globally on the environmental impact and suggest measures to control the same.
- **Eco Airport Tool Kit** – The objective of the Eco–Airport Toolkit e–collection is to provide practical and ready–to–use information to support the development of airport infrastructure projects. The tool kit provides practical and ready to use information for environmental planning at airports.
- Carbon Offsetting and Reduction estimation tool used for reporting purposes undertaking Carbon dioxide estimation.

3.2.3 ICAO Participation with Member Countries for Environmental Protection :

Not every country of the world is technologically advanced, financially well off and humanly equipped to resolve bigger challenges of environment. ICAO undertakes a country wise assessment and provides the necessary support and assistance under a single umbrella. ICAO works hand in glove with the governments of these countries for

- Policy development on reduction in emissions and creating a safe environment.
- Implementing long term strategies in emission mitigating measures and development.
- Capacity Building to execute effective strategies.
- Resource building for support related to technology and finances to implement devised strategies.

3.2.4 Committee for Aviation Environmental Protection (CAEP) :

The Committee on Aviation Environmental Protection (CAEP) is a technical committee of the ICAO Council established in 1983. CAEP assists the Council in formulating new policies and adopting new Standards and Recommended Practices (SARPs) related to aircraft noise and emissions, and more generally to aviation environmental impact. CAEP undertakes specific studies related to

- Noise reduction
- Local air quality (LAQ) monitoring
- Measures for reducing international aviation Carbon dioxide emissions

- New aircraft technology to reduce impact on environment
- Operational improvement measures
- Adoption of new standards and amendment of SARPs
- Sustainable aviation fuels
- Market-based measures (CORSA).
- Implementation of Decision Making tools for environmental protection

3.3 AIRPORT NOISE :

Airports located within the city limits often adversely affect people living in the vicinity. It may cause disorder in sleep, affect children and patients with cardiovascular diseases. Airport noise reduction is one of the priorities of ICAO since the adaptation of ICAO international standards for aircraft noise in 1971. Certification standards have become more stringent at airports to curb noise limits. ICAO undertakes a balanced approach to noise management adhering to the ICAO document 3829, adopted in the 33rd session in 2011. The balanced approach works on assessment and identification of noise level problems at specific airports and analyzes on measures for reduction. The balanced approach work on 4 fundamental principles

- **Reduction of Noise at Source** – this is implemented through incorporation of latest noise reduction technologies available and setting standards for noise limits for different category of aircrafts and helicopters.
- **Regulation of Operating Standards** – The process includes and undertakes lot of measures ranging from fixing assessment standards and criteria for aircrafts, implementing operational restrictions based on different airports, banning flights that have noise levels above the standards set for the airport and several other measures.
- **Noise Abatement Operational Procedures** – Abatement procedures are formulated depending on specific airports. It includes
 - a. development of standards for low noise operations.
 - b. preferential runway selections.
 - c. Descent and climb operations manual for aircrafts to mitigate emission and curb noise.
 - d. Efficient air traffic management systems.
- **Land use Planning and Management** – The feature encompasses the aspects of
 - a. Planning of new airports outside densely populated zones.
 - b. Ensuring that the activity outside the airport is more connected to aviation only for a considerable radius.
 - c. Educate and sensitize populations staying in the vicinity of the airport.
 - d. Define noise zones in the vicinity of the airports.

Programs and Operational procedures to curb noise have been implemented at various member countries and airports are facilitating the norms set by ICAO. Airport operators internally assess the impact and send reports to ICAO. Operational procedures to reduce aircraft engine emissions at airports are considered as per specifications and some of the rules that aircrafts are adhering to are :

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- Delayed engine start up
- Use of ground power units in place of auxiliary power units
- Use of low power/low drag procedure
- Taxiing with minimum engines running
- Shutting down of engines immediately upon arrival at the ramp or apron
- Selection of runways to reduce noise in adjacent communities
- Application of continuous descent approach procedures
- Use of low power/low drag procedure
- Minimizing flap angles
- Reduced use of reverse thrust
- Joining the instrument landing slope from a higher angle
- Requirements for aircraft to maintain airspace allotted for take off and landing
- Imposing curfews

☐ Check Your Progress – 1 :

1. IFSET is
 - a. Fuel saving estimation tool
 - b. Noise reduction tool
 - c. High speed protection tool
 - d. E learning tool
2. The technical committee of ICAO is known as
 - a. SARPs
 - b. CAEP
 - c. CEAP
 - d. CPAE
3. SARPs stand for
 - a. Standard Aviation Rules and Practices
 - b. Standard Practices
 - c. Standards and Recommended Practices
 - d. None of the options
4. Noise reduction at airports can be undertaken through the following procedures
 - a. Preferential runway selection
 - b. Efficient air traffic management
 - c. Educating people residing in vicinity of airport
 - d. All the options

3.4 WATER POLLUTION :

The extensive use of jet fuel, lubricants and other chemicals lead to spillage which may pollute water bodies or ground water levels. Airports and facilities that undertake repair and maintenance of aircrafts are working towards containing spillage by using, modern equipments and infrastructure. Anti icing fluids containing ethylene glycol, used during cold weather on aircrafts, runways and tarmacs, at different airports, are washed and they are drained off into water bodies that may affect the marine life. Techniques and guidelines related to waste management are also adhered to in airports to reduce impact on the environment. Action plans and Hazard Management initiatives are taken by airports for

containing spillages, storing hazardous materials used for aircrafts and sewage water treatments.

3.5 LOCAL AIR QUALITY :

ICAO recognizes that airport-related sources of emissions have the ability to emit pollutants that can contribute to the degradation of air quality of their nearby communities. To resolve issues related to air quality the following aspects are followed

- Defining Air Quality standards at airports and adhering to the same.
- Continuous assessment of types and amount of contaminants. This is also known as emission inventory.
- Ensure proper dispersion modelling techniques and technology.
- Following guidelines and implementing the same at airports as laid down by ICAO as per document 9889 "Airport Air Quality Manual".

3.6 TECHNOLOGICAL CHANGES AND INNOVATION :

Countries across the globe have been working on early implementation of new communications, navigation, surveillance and air traffic management (CNS/ATM) systems that are effective means of reducing fuel burn and avoiding unnecessary emissions. ICAO has been working with member nations in implementation of modern technology and operational procedures that have potential environmental benefits. ICAO also recently completed a global Horizontal Flight Efficiency (HFE) analysis as the first of a multi-step process to identify global flight efficiency. ICAO has also developed Doc 10031 "Guidance on Environmental Assessment of Proposed Air Traffic Management Operational Changes", which provide States, airport operators, air navigation service providers (ANSP) and other stakeholders with environmental assessment guidance to support decision making when analysing proposed air traffic management (ATM) operational changes.

Aircraft concepts with zero emission are the projects of the future. The aviation industry is working on alternate sources of fuel apart from fossil fuels that are sustainable, reduce or zero down emissions and reduce impact on environment. Considerable research is been undertaken on liquid hydrogen powered aircrafts and liquefied natural gas power. Bio Aviation fuels from different sources like Jatropa, Algae, biomass, waste oils etc to reduce carbon footprint on long haul flights. A lot of technological advancements are in the test phase related to aircraft design that includes blended wing body design for increased efficiency of the aircraft; hybrid electric and fully electric propulsion; structural and material composition change for various parts to reduce impact of the aircraft towards the environment.

3.7 THE GREEN AVIATION POLICY OF INDIA :

India is rapidly growing in the aviation sector and is expected to take the 3rd position in the air passenger market after the United States and China. The mission of Ministry of Civil Aviation in India is to implement a Green policy holistically across the country and "provide safe and sustainable air travel to various parts of India and world by minimizing adverse environmental impact of civil aviation activities". The aviation sector is looking towards a policy of sustainable and inclusive growth as remedy for ecological concerns. The ministry

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- Formulate policies related to the green initiative complying with norms and goals of ICAO and United Nation's sustainable development goals.
- Working towards a low carbon dioxide emission. Presently India contributes to 1% of carbon dioxide emission which is less than the global average.
- The Directorate General of Civil Aviation (DGCA) undertakes study and assessment of emissions across the country and evaluates the contribution of emissions to local air quality.
- Based on recommendations of DGCA, airports upgrade operation policies, manuals, and operating procedures and implement technological advancements.
- Enforcement of strict regulations in clearance of airports to prevent ecological impacts.
- Undertaking continuous research on alternative fuels especially bio fuels.
- Ensuring technological compliances in consultation with airline companies.

☐ Check Your Progress – 2 :

1. Aircrafts do not follow the under mentioned procedure to reduce environmental impact
 - a. Continuous engine start up
 - b. Taxiing with minimum engine
 - c. Application of continuous descent procedure
 - d. Shutting off engines at ramp
2. Anti Icing fluids used for aircrafts during cold weather have
 - a. glycerine
 - b. Ethylene glycol
 - c. Paraffin
 - d. None of the options
3. Bio Aviation fuels are majorly made from
 - a. Natural resources
 - b. Synthetic resources
 - c. Fossil fuels
 - d. Artificial resources
4. India has _____ aviation policy
 - a. Blue
 - b. Red
 - c. Green
 - d. White

3.8 LET US SUM UP :

Environmental protection is a responsibility of all organizations across the globe. The increased number of aircrafts globally has contributed to nearly 2.5% of environmental pollution. The apex regulatory body for aviation, ICAO, has primarily put forward environment sustainability plans and has been involved with member countries to identify and minimize the strategic indicators for environment pollution and impact through customized measures. ICAO is working on programmes and has set targets for increasing 2% fuel efficiency of aircrafts globally and reduce 50% emissions by 2050. The CORSIA agreement between member countries incorporates various technological interventions, guidance, processes and tools designed by ICAO to be implemented by member countries. CAEP the technical committee for ICAO is working on Standards and Recommended Practices (SARPs) to mitigate the impact of environment, noise, local air quality and other pollution created by aviation sector. India as a country

is committed and has implemented a green aviation policy under the guidance and directive of the ICAO.

3.9 ANSWERS FOR CHECK YOUR PROGRESS :

❑ **Check Your Progress 1 :**

- (1 – a) Fuel saving estimation tool
- (2 – b) CAEP
- (3 – c) Standard and Recommended Practices
- (4 – d) All the options

❑ **Check Your Progress 2 :**

- (1 – a) Continuous engine start up
- (2 – b) Ethylene glycol
- (3 – a) Natural resources
- (4 – c) Green

3.10 GLOSSARY :

Ramp : Parking space for an aircraft at the airport.

Taxiing : Aircraft moving slowly before takeoff or after landing.

Hydrocarbon : Organic chemical compound composed of Hydrogen and Carbon atoms.

Carbon Offsetting : Reduction in emission of Carbon dioxide and other green house gases in order to compensate for emissions made elsewhere.

Emission : The production or discharge of something especially gas or radiation.

Surveillance : Close observation.

Green House Gas : Any gas that has the property of absorbing infrared radiation emitted from earth's surface and re-radiating it back to the Earth's surface. Eg. Carbon dioxide, Methane etc

3.11 ASSIGNMENT :

1. List some of the green and environment friendly airports across the globe.
2. Describe the green initiatives undertaken at these airports.
3. List how technology helps in contributing towards a green airport.

3.12 ACTIVITIES :

Every airport across the globe has a definite set of Standards and Regulatory Practices to be followed by pilots. What are the measures that a pilot undertake according to SARPs to minimize environmental impact.

3.13 CASE STUDY :

A state operated airport was allocated to a private player on a long lease for remodelling, facility building and operations. The airport was remodelled by the private company and marketing activities by the private company indicated a tag "Going Green". The airport was located in vicinity of residential areas and

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often residents had appealed to the government about relocating the airport operations. The remodelling phase created more problems for the residents of the area due to construction activities. The construction had lead to drainage lines getting choked and elevation of the surroundings becoming susceptible to water logging. The green poster soon became a challenge for the private operators as studies indicated that no measures to reduce environmental impact around the area were enforced. The residents along with some environment friendly bodies demonstrated against the private operator and submitted a petition to the government.

1. List the measures that the private operators of the airport should undertake to resolve the issues with the residents of residential areas in the vicinity of the airport ?
2. What green measures should the airport operators implement on an immediate basis and on a long term basis ?

3.14 FURTHER READING :

1. Aviation Law by Rodney D Ryder
2. <https://www.icao.int/environmental-protection/Pages/default.aspx>
3. www.faa.gov

BLOCK SUMMARY :

Aircrafts being one of the most complex technological inventions are very expensive and the management of the same require a protection or a cover against various types of risks involved in its operations. The block starts with making you acquainted to the importance of insurances in the aviation industry. The evolution of insurances in the sector has led to the contribution of global surge in aviation operations. The block provides you with a conceptual understanding of the different types of insurances in the aviation sector and how airline insurance is different from any other vehicular insurance. Insurance protection for airlines are governed by regulatory laws internationally as well of the country where the aircraft is registered. Aircrafts are considered to be the safest mode of transport globally. Safety in an aircraft related to all the aspects is of paramount importance. Identification and continuous assessment of different risks lead to a structured operation and airline operator's work towards ways to eliminate or minimize any disruption compromising with the safety. The block acquaints you with crimes and incidents that may jeopardize safety for an aircraft and passengers and makes you aware of the legal perspective of dealing with the same under the purview of international norms and treaties. Airlines across the globe are a source of pollution and contribute towards impacting the environment. The block provides you insight into the global concern for preserving the environment and the various measures that the aviation industry is initiating to minimize the impact through the association of different countries, regulatory bodies and organizations.

BLOCK ASSIGNMENT :

1. How is airline insurance different from other vehicular insurances ? List and explain the types of aviation insurances ?
2. What is a Travel Insurance ? List and elucidate on the benefits of Passenger travel insurance ?
3. List the different types of environmental impacts and the corresponding risk mitigating measures undertaken by different airlines ?
4. Write in detail about types and nature of crimes ? Indicate the ways of resolution of different types under international treaties ?

HOSPITALITY LAW



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ISBN 978-93-91071-74-5

Edition : 2020

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The content is developed by taking reference of online and print publications that are mentioned in Bibliography. The content developed represents the breadth of research excellence in this multidisciplinary academic field. Some of the information, illustrations and examples are taken “as is” and as available in the references mentioned in Bibliography for academic purpose and better understanding by learner.’

ROLE OF SELF INSTRUCTIONAL MATERIAL IN DISTANCE LEARNING

The need to plan effective instruction is imperative for a successful distance teaching repertoire. This is due to the fact that the instructional designer, the tutor, the author (s) and the student are often separated by distance and may never meet in person. This is an increasingly common scenario in distance education instruction. As much as possible, teaching by distance should stimulate the student's intellectual involvement and contain all the necessary learning instructional activities that are capable of guiding the student through the course objectives. Therefore, the course / self-instructional material are completely equipped with everything that the syllabus prescribes.

To ensure effective instruction, a number of instructional design ideas are used and these help students to acquire knowledge, intellectual skills, motor skills and necessary attitudinal changes. In this respect, students' assessment and course evaluation are incorporated in the text.

The nature of instructional activities used in distance education self- instructional materials depends on the domain of learning that they reinforce in the text, that is, the cognitive, psychomotor and affective. These are further interpreted in the acquisition of knowledge, intellectual skills and motor skills. Students may be encouraged to gain, apply and communicate (orally or in writing) the knowledge acquired. Intellectual- skills objectives may be met by designing instructions that make use of students' prior knowledge and experiences in the discourse as the foundation on which newly acquired knowledge is built.

The provision of exercises in the form of assignments, projects and tutorial feedback is necessary. Instructional activities that teach motor skills need to be graphically demonstrated and the correct practices provided during tutorials. Instructional activities for inculcating change in attitude and behavior should create interest and demonstrate need and benefits gained by adopting the required change. Information on the adoption and procedures for practice of new attitudes may then be introduced.

Teaching and learning at a distance eliminates interactive communication cues, such as pauses, intonation and gestures, associated with the face-to-face method of teaching. This is

particularly so with the exclusive use of print media. Instructional activities built into the instructional repertoire provide this missing interaction between the student and the teacher. Therefore, the use of instructional activities to affect better distance teaching is not optional, but mandatory.

Our team of successful writers and authors has tried to reduce this.

Divide and to bring this Self Instructional Material as the best teaching and communication tool. Instructional activities are varied in order to assess the different facets of the domains of learning.

Distance education teaching repertoire involves extensive use of self- instructional materials, be they print or otherwise. These materials are designed to achieve certain pre-determined learning outcomes, namely goals and objectives that are contained in an instructional plan. Since the teaching process is affected over a distance, there is need to ensure that students actively participate in their learning by performing specific tasks that help them to understand the relevant concepts. Therefore, a set of exercises is built into the teaching repertoire in order to link what students and tutors do in the framework of the course outline. These could be in the form of students' assignments, a research project or a science practical exercise. Examples of instructional activities in distance education are too numerous to list. Instructional activities, when used in this context, help to motivate students, guide and measure students' performance (continuous assessment)

PREFACE

We have put in lots of hard work to make this book as user-friendly as possible, but we have not sacrificed quality. Experts were involved in preparing the materials. However, concepts are explained in easy language for you. We have included many tables and examples for easy understanding.

We sincerely hope this book will help you in every way you expect. All the best for your studies from our team!

HOSPITALITY LAW

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BLOCK 4 : INDUSTRIAL LEGISLATION LAWS IN INDIA

- UNIT1 THE EMPLOYEES PROVIDENT FUND AND
MISCELLANEOUS PROVISIONS ACT 1952
- UNIT2 THE EMPLOYEES STATE INSURANCE CORPORATION
ACT, 1948
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- UNIT4 CONSUMER PROTECTION ACT, 2019
- UNIT5 PAYMENT OF WAGES ACT

INDUSTRIAL LEGISLATION LAWS IN INDIA

Block Introduction :

The Industrial Legislation laws of India are designed to protect and safeguard the interests of workers working in different sectors for employment in India. The laws are implemented to create a healthy work environment and impart clear guidelines for both employers and employees. The government of India is focussed on promoting welfare activities and social security to workers working in organized as well as unorganized sectors. The process of liberalization and global unification on the path to development have led to creation and implementation of better laws and creating a better workforce. You as a student of aviation need to know these laws because a lot of agencies and workers are involved in the aviation sector to make operations smooth for passengers travelling around the globe. The aviation sector is a team bound activity and organizations that look into the promotion of welfare measures and adhere to all the laws related to the workforce ultimately delivers better results in terms of operations, passenger services and profit.

Block Objectives :

- To understand the concept of Provident Fund, Gratuity and Employee State Insurance Act as a social security measure for the benefit of the employees in regards to savings and healthcare.
- To describe and enumerate the different laws related to workers and their payment of wages by employers under the Payments of Wages Act.
- To list the rights of the consumer in India and detail the measures that a consumer can take to resolve grievances and disputes related to a product or a service under the Consumer Protection Act 2019.

Block Structure :

Unit 1 : The Employees Provident Fund and Miscellaneous Provisions Act 1952

Unit 2 : The Employees State Insurance Corporation Act, 1948

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UNIT STRUCTURE

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1.0 LEARNING OBJECTIVES :

- To understand the concept of provident fund as a social security organization for the benefit of the employees.
- To list the rules and regulations under the Employees Provident Fund Act.
- To enumerate the different aspects related to the Employees Provident Fund Act.

1.1 INTRODUCTION :

Employees Provident Fund Organization (EPFO) is one of the World's largest Social Security Organisations in terms of the volume of financial transaction undertaken. The EPFO is under the Ministry of Labour and Employment, Government of India. The provident fund scheme is a retirement oriented scheme where an employee saves a substantial corpus during the employment period to get the benefits of the same after retirement. The Employees Provident Fund and Miscellaneous Provision Act, 1952 is applicable to the whole of country and is under the supervision of a board of trustees, the Employees Provident Fund Organization. Since its enactment the act has been amended several times.

1.2 APPLICABILITY UNDER THE EMPLOYEES PROVIDENT FUND ACT :

The applicability of the act is for different sectors providing employment. The applicability criteria of the act are as

- Every Factory or establishment employing 20 or more employees from the date of its inception are covered under this act. Employees can be permanent as well as contractual.
- For cinema and theatres the number of persons for eligibility of the act is 5 or more.
- For organizations employing less than 20 people, the act can be enforced by the government of India by giving a notice period of 2 months to the establishment.
- Organizations having departments or branches located at the same place or at different places are considered to be part of the same organization.
- Employees having salary less than Rs 15000 per month are eligible for provident fund and have to compulsorily contribute. Provident Fund is not mandatory for employees having more than Rs 15000 as monthly salary. The employer can however, limit the contribution of the employees earning more than Rs 15000 to 12 % of Rs 15000 under 26 A of the EPF act.
- Organizations that have registered under the act continue to be a part of the same, even in event of the number of employees decrease and are below 20.
- The act does not apply to Co-operative societies employing less than 50 people.
- Government organizations that have implemented Contributory Provident Fund do not come under the purview of the act.

1.3 PARTS OF EMPLOYEES PROVIDENT FUND :

The Employees Provident Fund is a combination of 3 components or schemes that comprise the entire act. The schemes are as

- Employees Provident Fund Scheme, 1952 (EPF)
- Employees Deposit Linked Insurance Scheme, 1976 (EDLI)
- Employees Pension Scheme, 1995 (EPS)

1.3.1 Employees Provident Fund Scheme, 1952 :

This is the primary savings scheme under the act, where the fund is built with monetary contribution extended by employees and their employer each month. Both parties extend 12% each of the employees' monthly salary, as their share of contribution towards EPF. The corpus collected is managed by the EPFO and interest is credited for the amount as decided by the Central government.

Calculation of Employees and Employers share under the Act

- Employees Share is 12% of the Basic Salary and Dearness Allowance (DA) per month.
- The amount of the Employees share goes to the EPF Account of the Employee.

- Employers Share is 12% of the Basic Salary and Dearness Allowance (DA) of employee per month.
- 8.33% of Employers share goes to the Employees Pension Scheme (EPS).
- 3.67% of the Employers share goes to the EPF account of the Employee
- The total contribution to the Employees Provident Fund from Employee and Employers combined is 24% per month. Out this 15.67% goes to the EPF Account of the employee and 8.33% goes to the EPS account.
- There are certain charges that are paid by the employer apart from the above contributions. They are
 - 0.5% of the Basic and DA of the employee as contribution to EDLI scheme
 - 0.01% of the Basic and DA of the employee as EDLI relocation
 - 0.85% of the Basic and DA of the employee as Provident Fund Administrative Charges
- The total contribution of the Employer in the Employee Provident Fund is 13.36% per month and that of the Employee is 12% per month amounting to a total contribution of 25.36% per month.
- The Employee and Employer contribution is paid by the employer online from the EPFO portal.

1.3.2 Employees Pension Scheme, 1995 :

Employees' Pension scheme is a social security scheme provided by the EPFO and is a component of the Employees Provident Fund. The scheme has a provision for a pension to employees after retirement at the age of 58 years. The benefits of the scheme are applicable to employees who have provided a service of at least 10 years.

In order to be eligible for availing benefits under the Employees' Pension Scheme (EPS), an individual has to fulfil the following criteria:

- He should be a member of EPFO
- He should have completed 10 years of service
- He has reached the age of 58. Form 10 D is filled to apply for pension after attaining an age of 58 years.
- He can also withdraw his EPS at a reduced rate from the age of 50 years
- He can also defer his pension for two years (up to 60 years of age) after which he will get a pension at an additional rate of 4% for each year
- In case of death of the member, the widow and children get a monthly pension as per rules of the act.
- In case a member is not able to remain in service for 10 years before attaining the age of 58 years, he can withdraw the complete sum at the age of 58 years by filling Form 10C. It is worth mentioning here that he will not get the monthly pension benefits after retirement.

The pension amount in Provident Fund depends on the pensionable salary of the member and the pensionable service. The member's monthly pension amount is calculated as per the following formula:

Member's Monthly Salary = Pensionable salary X Pensionable service

1.3.3 Employees Deposit Linked Insurance Scheme, 1976 :

Employees Deposit Linked Insurance Scheme or EDLI is an insurance cover provided by the Employees Provident Fund Organisation. The registered nominee receives a lump-sum payment in the event of the death of the person insured, during the period of the service. EDLI applies to all organisations registered under the Employees Provident Fund and Miscellaneous Provisions Act, 1952. The extent of the benefit is decided by the last drawn salary of the employee.

The essential elements of EDLI, applied uniformly to all beneficiaries under the policy are:

- EDLI applies to all employees with a basic salary under Rs. 15,000/- per month. If the basic salary goes above Rs. 15,000 per month, the maximum benefit is capped at Rs. 6,00,000/-, amended with effect from 28.04.2021, the EPFO has increased the maximum benefit to Rs.7 lakh.
- There is no need for the employees to contribute separately to EDLI. Their contribution is required only for EPF.
- The Ministry had increased the minimum amount of benefit to Rs.2.5 lakh in Feb 2018, which was valid for two years.
- There are no exceptions to the insurance coverage provided by EDLI. It protects the insured person round the clock, all around the world.
- The registered nominee will receive a lump-sum payout in the event of the death of the insured person. If no nominee or beneficiary is registered, then the amount would be paid to the legal heir.

With effect from 28.04.2021, the pay-out to be awarded will be calculated as under :

- {Average Monthly Salary of the Employee for the last 12 months (capped at Rs.15,000/- p.m.) x 30 } + Bonus Amount (Rs.2,50,000/-)

Therefore, the maximum payout under EDLI is capped at Rs. 7,00,000/-.

To claim the benefits under the EDLI scheme by a nominee or a claimant the following process is undertaken

- The benefits can be claimed by the nominee specified by the insured person. If no nominee was registered, then the family members or legal heirs can apply for the same.
- The deceased person should have been an active contributor to the EPF scheme at the time of his/her death.
- EDLI Form 5 IF has to be duly completed and submitted by the claimant.
- The claim form has to be signed and certified by the employer.
- If there is no employer or the signature of the employer cannot be obtained, the form must be attested by any of the following :
 - Bank manager (in whose branch the account was maintained)
 - Local MP or MLA
 - Gazetted Officer
 - Magistrate

- Member/Chairman/Secretary of Local Municipal Board
- Post Master or Sub-Postmaster
- Member of the regional committee of EPF or CBT
- The claimant must submit all the documents along with the completed form with the regional EPF Commissioner's Office for processing of the claim.
- The claimant can also submit Form 20 (for EPF withdrawal claim) as well as Form 10C/D to claim all the benefits under the three schemes, EPF, EPS and EDLI)
- Once all the documents are provided and the claim is accepted, the EPF commissioner must settle the claim within 30 days from the receipt of the claim. Otherwise, the claimant is entitled to interest @12% p.a. till the date of actual disbursement.

❑ **Check Your Progress – 1 :**

1. _____ % of Employers share goes to the Employees Pension Scheme (EPS)
a. 8.33 b. 12 c. 13.36 d. 10
2. The maximum benefit under EDLI is
a. Rs 6 Lacs b. Rs 6.5 Lacs c. 7 Lacs d. Rs 7.5 Lacs
3. The _____ Form is filled to apply for pension after retirement at 58 years
a. 10 A b. 10 D c. 10 C d. 10 B
4. Every Factory or establishment employing _____ or more employees are covered under EPF
a. 10 b. 15 c. 18 d. 20

1.4 DUTIES OF THE EMPLOYER IN EMPLOYEES PROVIDENT FUND :

The under mentioned aspects are the duties of the employer pertaining to Employees Provident Fund

- Enrol eligible employees under provident fund from the date of joining.
- Get the new employee to furnish necessary documents to generate a new Unique Account Number (UAN) and link the Provident Fund account with the UAN of the employee.
- If the employee has a UAN number collect the same and undertake the necessary action in the EPFO portal to link the same to the organization's PF account.
- Share the details of the UAN to the employee and assist in activating the UAN for the employee.
- Maintenance of all regulatory documents related to employees, employee nominations, payments and contributions undertaken for the fund.
- Processing of Provident Fund claim form of employees to EPFO for settlement of claim.
- There are certain recovery of damages undertaken by the Provident Fund Office through notification from the employer in event of default in payment

Hospitality Law

- i. For default less than 2 months a penalty of 17% is levied on the total contribution.
- ii. For default between 2 months and 4 months a penalty of 22% is levied on the total contribution.
- iii. For default between 4 months and 6 months a penalty of 27% is levied on the total contribution.
- iv. For default above 6 months a penalty of 37% is levied on the total contribution.

1.5 ADVANCES FROM EMPLOYEES PROVIDENT FUND :

There are some benefits that the EPFO extends to its employees as advances or premature withdrawals under certain circumstances. Employees can get an advance from their Provident fund in event of

- **Purchase or Construction of House** – The employee must have contributed to the PF account for 5 years and minimum balance in the account should be Rs 1000.
- **Repayment of Loan** – The employee must have contributed to PF account for 10 years and the loan should be from a government body.
- **Hospitalization, Surgery and other Medical Reasons** – The employee must be admitted to a hospital for a month.
- **Marriage in Family** – The employee must have contributed to the PF account for 7 years.
- **Education of Son or Daughter** – The employee must have contributed to the PF account for 7 years.
- **Abnormal Conditions (Natural Calamities, Pandemic)** – Either a certificate of damage from appropriate authority or declaration by Central/ State governments.

1.6 HOW TO SETTLE EMPLOYEES PROVIDENT FUND ACCOUNT :

Once an employee retires, leaves a job or joins a new job the Provident Fund account of the employee may either be linked to the pension account or withdrawn or transferred depending on various circumstances.

- If the employee is less than 55 years of age and resigns and want a settlement of the provident fund, the same can be undertaken after 2 months of leaving the employment. The employee should not work in any organization covered under Provident Fund to get the claim settled. Employers undertake the process through filling Form 19.
- If the employee dies Family Members or nominee have to fill Form 20 for settlement of the Provident Fund of the employee. Forms for EDLI and EPS are also filled in event of death.
- If an employee resigns and joins a new organization the merging process of old PF account is undertaken by the new employer.
- Withdrawals can be either offline through a Composite Claim form attested by the employer or online through the EPFO portal.

❑ **Check Your Progress – 2 :**

1. The facility of advance for an employee from EPF, for construction of house can be taken after a contribution period
 - a. 5 Years
 - b. 3 Years
 - c. 2 Years
 - d. 1 Year
2. If the employer fails to deposit the contribution for EPF for 3 months, a penalty of _____ % is levied on the total contribution
 - a. 20
 - b. 22
 - c. 24
 - d. 26
3. If an employee wishes to withdraw the EPF after leaving job, he can do so after
 - a. 15 days
 - b. 1 Month
 - c. 45 days
 - d. 2 Months
4. The administrative charges levied for EPF from employers is
 - a. 0.5%
 - b. 0.7%
 - c. 0.85%
 - d. 1%

1.7 LET US SUM UP :

Employees Provident Fund Organization (EPFO) is one of the World's largest Social Security Organisations in terms of the volume of financial transaction undertaken. The EPFO is under the Ministry of Labour and Employment, Government of India. The benefit of Provident fund is extended to different types of establishments having 20 or more people working in the same. It is mandatory for organizations to enrol employees earning a basic salary and dearness allowance of Rs 15000 or less mandatorily in the Employees Provident Fund. The Employees Provident fund is applicable to permanent, temporary and contractual employees. It is not mandatory for organizations to enrol employees earning salary more than Rs 15000. The deduction undertaken for employees is 12% of their salary and an equivalent amount is paid by the employer. The total amount that amounts to 24% of the basic and DA of an employee per month is deposited with EPFO. The EPFO manages the corpus and on retirement, resignation or death of an employee disburses the amount according to the interest as fixed by the Central government. The Employees Provident Fund is divided into 3 components;

- a. The Employees Provident Fund where 12% of employee contribution and 3.67% from Employers contribution is deposited
- b. The Employees Deposit Linked Incentive Scheme which is a benefit given to the nominee or family of an employee on death in service. The amount fixed under EDLI by the EPFO is maximum up to Rs 7 Lacs. There is no separate contribution for the EDLI scheme undertaken by the employee but employers pay a minimal amount for the same.
- c. The Employee Pension Scheme where 8.33% of the employers provident fund is deposited. The norms for registration of an employee under the act, transfer of account, transfer of funds by the employer, withdrawal are undertaken through the EPFO portal and the employer assists the employee in undertaking all the functions.

1.8 ANSWERS FOR CHECK YOUR PROGRESS :

❑ **Check Your Progress 1 :**

- (1 – a) 8.33
- (2 – c) 7 Lacs
- (3 – b) 10 D
- (4 – d) 20

❑ **Check Your Progress 2 :**

- (1 – a) 5 Years
- (2 – b) 22
- (3 – d) 2 months
- (4 – c) 0.85%

1.9 GLOSSARY :

Corpus : Total amount of money invested

Enactment : The process of passing legislation

Fund : Sum of money saved for a particular purpose

Basic Salary : Amount paid to an employee before any addition or deduction as applied to the earnings

Cooperative Society : Autonomous association of persons to meet a common objective.

Dearness Allowance : Calculation on inflation and allowance paid to employees.

1.10 ASSIGNMENT :

A Banquet Hall has employees on contract and daily wages are paid to them according to the minimum wages as applicable for skilled manpower. During off season, there is a less chance of functions happening daily and these employees are employed on a need basis by the banquet hall. A function may involve more than twenty employees at any given day. There may be employees who have been associated with the banquet hall for years and there may also be employees who might have attended only one function.

- a. Are all these employees eligible for Provident fund according to the EPF act ?
- b. If they are eligible, you have to write down the computation formula for the employees and how shall the banquet hall deal with the same ?
- c. If the banquet hall is not registering these employees under the EPF, is there a provision for doing the same ?

1.11 ACTIVITIES :

Employee Provident Fund is a social security scheme applicable in India. You have to find out which are the other countries that have a provision of Provident fund scheme and how is their scheme structured. Make a comparative study of the schemes listing the advantages and disadvantages.

1.12 CASE STUDY :

An Employee joined company X and worked for 5 years. His salary in company X was Rs 14000. He contributed regularly to his provident fund during the tenure of 5 years. Due to a better opportunity he moved to company Y. In Company Y his salary increased to Rs 20000 and the company did not pay him any provident fund. After 2 years the person left company Y and was recruited back to Company X at a salary of Rs 22000. Company X had a policy of contributing to provident fund even if salaries were more than Rs 15000. Since then he has again been contributing to provident fund for 3 years. The employee's daughter's marriage has been fixed 3 months later and he wants to withdraw advance amount from his provident fund.

- a. Is the employee eligible to withdraw advance amount for his daughter's marriage ?
- b. If yes under what norm is the employee eligible for the advance ?
- c. What is the percentage of advance amount that the employee can get, if sanctioned from EPF ?

1.13 FURTHER READING :

1. www.epfindia.gov.in
2. Step by Step into EPF by Ram Niwas Bairwa

UNIT STRUCTURE

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- 2.7 Answers For Check Your Progress
- 2.8 Glossary
- 2.9 Assignment
- 2.10 Activities
- 2.11 Case Study
- 2.12 Further Reading

2.0 LEARNING OBJECTIVES :

- To list the evolution of the Employee's State Insurance Act as a social security scheme for the benefit of employees and their dependants.
- To enumerate the eligibility and various benefits under the Employees State Insurance Corporation scheme for employees.

2.1 INTRODUCTION :

The Employees' State Insurance Scheme of India is an integrated social security scheme formulated to provide social protection to workers and their dependants, in the organised sector, in event of contingencies, such as, sickness, maternity and death or disablement due to an employment injury or occupational hazard. The scheme is self financed and comprehensive. The Employees State Insurance Corporation is a statutory corporate body set up under the Employees

State Insurance Act 1948. The Employees State Insurance Corporation has its headquarters at New Delhi besides 23 regional offices and 26 sub regional offices in States and over 800 local offices throughout the country to support the implementation of the scheme. A special Medical benefit council advises the ESIC on the administration of the medical benefit.

2.2 HISTORY OF EMPLOYEES STATE INSURANCE CORPORATION (ESIC) :

The Employees State Insurance Act was the first major legislation on Social Security in India. The multi dimensional social security system was introduced when the country just after independence was working towards a reinforcement of the socio economic infrastructure in the organized sector. The first report on health insurance was submitted to the tri-partite labour conference in 1944 by Prof. B. P. Adarkar an eminent scholar and visionary. The report was considered to be worthy and Prof. Adarkar advocated the management of a social scheme till its implementation in the country. The scheme was formally launched on 24th February 1952 also celebrated as ESIC day at Kanpur. It was simultaneously launched at Delhi with 1,20,000 employees covered under the scheme. Dr. C.L. Katial an eminent doctor from London took over as the 1st Director General of ESIC and steered the scheme till 1953. The logo of ESIC, a lighted lamp, symbolises the spirit of the Scheme, lighting up lives of innumerable families of workers by replacing despair with hope and providing help in times of distress, both physical and financial. The act was intended as a social security measure for factory workers only but later the applicability of the act was extended to all establishments having more than 10 workers.

2.3 COMPOSITION OF EMPLOYEES STATE INSURANCE CORPORATION (ESIC) :

The Employees State Insurance Corporation is an autonomous corporation under the Ministry of Labour and Employment and is constituted of the following members.

- a. The Director General of ESIC who is an ex officio member.
- b. Chairman of the ESIC as appointed by the Central government.
- c. Vice President appointed by the Central Government
- d. Maximum of 5 members as appointed by the Central Government.
- e. 1 Member of the Central Government representing the Union Territories.
- f. 10 Members representing employers as nominated by the Central Government.
- g. 10 Members representing employees as nominated by the Central Government.
- h. 2 Members representing the medical profession as nominated by the Central Govt.
- i. 3 Members of Parliament.

The Corporation can with the permission of the Central government raise loans and discharge the same. It can acquire movable as well as immovable property and any income from these properties is managed by the corporation. Hospitals catering to workers enlisted under the corporation can be set up or the

corporation can tie up with State government hospitals or private hospitals for the treatment of the workers enlisted under ESIC.

2.4 BENEFITS UNDER ESIC :

The Section 46 of the ESIC Act enlists 6 social security benefits as applicable

2.4.1 Medical Benefit

Under the ESIC scheme complete medical care is provided to an insured person and his family members from the day of registration under the scheme. There is no ceiling limit on treatment to an insured person or his family members. Even medical care under the scheme is provided to permanently disabled and retired employees and their spouse for a token amount of Rs 120 paid as a premium annually.

Insured persons normally undergo allopathic treatment; however, wherever the state governments have recognized alternative form of treatment like ayurveda or homeopathy, the same is also permissible under the scheme. IPs are entitled to avail treatment in ESI Dispensary/Hospital/Diagnostic Centre and recognised institutions, to which he is attached such as :

- Outpatient treatment
- Domiciliary treatment by visits at their residences.
- Specialists Consultation.
- In-patient treatment(Hospitalisation)
- Free supply of drugs dressings and artificial limbs, aids and appliances.
- Imaging and laboratory services.
- Integrated family welfare, immunisation and MCH Programme and other national health programme etc.
- Ambulance service or re-imburement of conveyance charges for going to hospitals, diagnostic centres etc.
- Medical Certification and
- Special provisions.

Family members of insured person are also eligible to avail all the facilities including hospitalization.

2.4.2 Sickness Benefit :

Once a worker has completed 78 days of working in 6 months, there is an entitlement benefit for sickness. If a worker is sick and is unable to go for work due to some sickness and the same is certified by the ESI hospital, a cash compensation of 70% of the wages is paid to the worker for a maximum period of 91 days.

Extended Sickness Benefit can be given to workers up to 2 years at 80% of the wages for 34 malignant and long term diseases.

2.4.3 Maternity Benefit

Maternity Benefit is payable to female workers for 26 weeks, extendable further by 1 month on medical advice at full wages. The employee to avail a maternity benefit must have worked for minimum of 70 days between 2 contribution periods of the premium paid.

2.4.4 Disablement Benefit

Disablement benefits are of 2 types Temporary and Permanent. The Temporary Disablement benefit is applicable from the first day when registration is undertaken for the scheme. It pertains to injury during employment and the benefit extended is up to 90% of the wages as long as the disability persists.

The Permanent Disability Benefit is paid at 90% of wage monthly depending on the report of the medical board related to loss of earning capacity of the insured person. In event of death of an Insured Person due to occupational hazards or employment injury, benefits are paid to dependants at 90% of the wages monthly.

2.4.5 Other Benefits

There are other benefits that are paid to an Insured Person according to the act that include Funeral expense of Rs 15000 for the insured person paid to dependants performing the last rites of the insured, medical reimbursement for treatment at a place where the Insured gets confined and necessary medical facility is unavailable under the ESI scheme. Apart from these the scheme provides Vocational and Physical rehabilitation to disabled insured persons.

The Rajiv Gandhi Shramik Kalyan Yojana was launched since 2005 where an insured person under the ESI scheme for 3 years or more if gets unemployed due to any circumstance is eligible to receive unemployment allowance at 50% of his last drawn wage for 2 years, medical care for the insured and dependants at ESI hospitals/dispensaries and free vocational training for up gradation of skills.

The Atal Beemit Vyakti Kalyan Yojana (ABVKY) is a relief scheme for insured people once in a life time and is form of relief payment for 90 days where 50 % of wages are paid in event of any loss of employment.

❑ Check Your Progress – 1 :

1. The first Director General of the ESIC was
 - a. Professor Adarkar
 - b. Dr. C. L. Katial
 - c. Dr. B.M. Desai
 - d. None of the options
2. The maternity benefit to female workers under the act is paid for
 - a. 10 weeks
 - b. 20 weeks
 - c. 24 weeks
 - d. 26 weeks
3. The permanent disability benefit is paid at _____ % of wages
 - a. 75
 - b. 85
 - c. 90
 - d. 95
4. Unemployment allowance under Rajiv Gandhi Shramik Kalyan Yojana is given for a period of
 - a. 2 years
 - b. 3 years
 - c. 4 years
 - d. 5 years

2.5 THE ESI SCHEME :

2.5.1 Eligibility Criteria :

The following are the criteria for eligibility for ESI Scheme

- Organizations that are registered under the Factory Act and the Shops and Establishment Act are eligible for benefit under ESI scheme.
- Organizations should employ more than 10 employees to get themselves registered under the scheme.

2.5.2 Identification of Eligible Employees :

The Eligibility of the employees is calculated based on the gross salary of the employee. Employees monthly gross income not exceeding Rs. 21,000 per month, are eligible to avail benefits under the Scheme. The employees on daily wages and earning up to Rs 176 per day are exempted from employee contribution; however, employers contribute for their share.

Gross salary is described as the total income earned by the employee, while working in their job, before any deductions are made for any health insurance, social security and taxes. The gross salary does not include any bonus, leave encashment or gratuity.

2.5.3 Contribution under ESI Scheme

The contribution for ESI is bifurcated under 2 heads. The Employee contribution is 0.75% of the gross salary and the Employer Contribution is 3.25% of gross salary of the employee. The responsibility for depositing both the contributions lie with the employer and the contribution has to be deposited within 15 days of the last day of the calendar month. Payments can be done at designated bank branches or online.

2.5.4 Documents Required by an Employer for Registration Under the ESI Scheme :

To avail the ESI scheme for the employees, employers need to register in the ESIC portal and sign up. A form is filled and a username and password is generated and sent to the mail of the employer. The Employer needs to go to the New Employer Registration and fill the "Employer Registration Form 1". Along with submission of the form a "Payment of Advance Contribution" for 6 months has to be done by the employer. On successful payment a 17 digit Registration Number is generated along with a Registration Letter (C11) that acts as a valid proof of registration by the employer. The documents that are needed along with the registration form by the employer are

- Certificate of Registration/ Partnership Deed/ Trust Deed
- Memorandum and Articles of Association of the Company
- List of employees working in the organization
- PAN Card of the organization and employees working in the organization
- Salary and compensation details of all the employees
- Bank details of the organization with a cancelled cheque
- List of Directors / shareholders of the organization
- Attendance Register of the employees

☐ Check Your Progress – 2 :

1. Employees eligible for ESIC scheme should have a gross salary less than
 - a. Rs 10000 per month
 - b. Rs 15000 per month
 - c. Rs 20000 per month
 - d. Rs 21000 per month
2. Employee contribution for ESIC is _____ % of gross salary.
 - a. 0.5
 - b. 0.75
 - c. 1
 - d. 1.25

3. Employer contribution under ESIC is _____ % of employee's gross salary
a. 2 b. 2.25 c. 3.25 d. 3.5
4. Employees earning Rs _____ per day are exempted from employee contribution
a. 176 b. 186 c. 196 d. 206

2.6 LET US SUM UP :

Employees State Insurance act is a major legislation on social security in India. The scheme was launched in 1952 under the Employees State Insurance Corporation (ESIC), an autonomous body comprising of many designated members from the Central government, Union territories, medical profession and other areas. The ESIC is headed by the rank of Director General. There are several benefits extended by the ESIC for employees and their dependants. The employees earning a gross salary of less than Rs 21000 per month are eligible under the scheme. The benefits comprise of medical, sickness, maternity, disablement, funeral, unemployment allowance and others. The contribution to ESIC by employees is 0.75% of their gross salary and 3.25% of employee's gross salary by the employer. The registration to ESIC scheme for employees is undertaken through a portal in a structured process and norms for all the benefits are listed in the portal and are made understandable by the employer upon registration.

2.7 ANSWERS FOR CHECK YOUR PROGRESS :

Check Your Progress 1 :

- (1 – b) Dr. C.L. Katial
(2 – d) 26 Weeks
(3 – c) 90
(4 – a) 2 Years

Check Your Progress 2 :

- (1 – d) Rs 21000 per month
(2 – b) 0.75%
(3 – c) 3.25%
(4 – a) Rs 176

2.8 GLOSSARY :

Insurance : Legal agreement between two parties for a specific purpose.

Premium : Amount paid for contract of insurance.

Domicilliary Treatment : Medical treatment done at home instead of hospital due to some circumstances.

Disablement : Condition of being unable to perform any activity as a consequence of physical or mental unfitness.

Dependant : Person who relies on another person as a primary source of income.

2.9 ASSIGNMENT :

Employees State Insurance Corporation operates a lot of hospitals in different states of India. List the different ESIC hospitals of Gujarat and indicate the facilities offered by these hospitals for their employees.

2.10 ACTIVITIES :

The Employees State Insurance Corporation issues a smart identity card to the insured person under the act.

Refer to a Smart identity card issued by ESIC and list the different fields as indicated on the Smart Card.

Write the relevance of each field as listed down for the smart identity card.

2.11 CASE STUDY :

An employee insured under the ESIC was detected with acute knee problem while on job. He visited a ESI dispensary that was 35 km from his home. On his check up, the dispensary recommended a specialist intervention and referred the employee to the district Civil hospital for further orthopaedic investigation. The Civil hospital was 50 km from the employees house and on check up at the civil hospital it was diagnosed that the employee required a knee replacement surgery. The facility for a knee replacement surgery was not available at the civil hospital; however, it was available at a private hospital that was 7km from his home. The private hospital was not empanelled with the ESIC.

- a. Is the employee eligible to undergo his knee replacement surgery at the private hospital ?
- b. If there is a provision for the same as above, what are the formalities and procedures that should be undertaken by the employee ?

2.12 FURTHER READING :

1. www.esic.in
2. Practical Guide to Employees' State Insurance Act, Rules and Regulations by H.L. Kumar

The Payment of Gratuity Act, 1972

UNIT STRUCTURE

- 3.0 Learning Objectives
- 3.1 Introduction
- 3.2 Applicability of the Act
- 3.3 The Parts of the Payment of Gratuity Act, 1972
- 3.4 Eligibility Criteria for Payment of Gratuity
- 3.5 Eligibility Criteria for Gratuity
 - 3.5.1 Calculation for Employees Paid Salary Per Month
 - 3.5.2 Calculation for Employees Paid under Piece Rating
 - 3.5.3 Calculation for Seasonal Employees
- 3.6 The Process for Payment of Gratuity
- 3.7 Disputes and Resolution in Payment of Gratuity
- 3.8 Forfeiture of Gratuity
- 3.9 Nomination for Gratuity
- 3.10 Let Us Sum Up
- 3.11 Answers For Check Your Progress
- 3.12 Glossary
- 3.13 Assignment
- 3.14 Activities
- 3.15 Case Study
- 3.16 Further Reading

3.0 LEARNING OBJECTIVES :

- To understand the concept of gratuity as an initiative of social security and obligation of an employer towards an employee.
- To enumerate the different aspects concerning the employee and the employer involved in the Payment of Gratuity Act.
- To understand the aspects related to the calculation of gratuity amount, process for payment and resolution of disputes under the act.

3.1 INTRODUCTION :

You have studied in the previous two units about the Provident Fund Act and the ESI act. In this Unit you shall be acquainted with an act that intends to assist the employee on retirement with a monetary benefit for the services rendered. It is a welfare measure and is a step towards social security for the employee who shall be retiring from service. The act works towards a financial assistance for any post retirement hardships and inconveniences. The act is an obligation of an employer towards the employee. The act is incorporated in all

sectors of employment and being a student of Aviation sector you should be aware of the rules and regulations laid down by the Government of India for employees.

3.2 APPLICABILITY OF THE ACT :

The Payment of Gratuity Act, 1972 was enacted by the Parliament of India on 21st August 1972 and was enforced from 16th September 1972. The act is applicable to the whole of India. Earlier the State of Jammu and Kashmir was not included under the act but with the state becoming separate Union Territories the act is now applicable. The act is applicable to factories, mines, oilfields, plantations, ports, railways and other organizations. Under the organizations coming under Shop and Establishments act, it is applicable when the total strength of employees working for the organization is 10 or above in any given day in a year. Once gratuity is enforced the employers cannot discontinue the same under the pretext of reducing the number of employees. Employers are liable to obtain insurance for liability towards payment of gratuity under the act from Life Insurance Corporation of India or other prescribed insurance companies. Exemptions for the same are allowed for employers who have created a separate corpus for the gratuity fund in the organization.

3.3 THE PARTS OF THE PAYMENT OF GRATUITY ACT, 1972 :

- **Employee :** According to the act, any person employed on wages other than an apprentice in an organization as stipulated under the act to undertake skilled, semi skilled or unskilled tasks at a manual, supervisory, technical or clerical level come under the purview of the act. Employees working at managerial or administrative capacity also come under the purview of the act but the act does not include apprentices and persons who hold civil posts under the Central or the State government and is governed by any other act or by any other rules providing for the payment of gratuity. The act is applicable whether the terms for the same are expressed or implied.
- **Wages :** Wages according to act is defined as all emoluments earned by an employee while on duty or on leave. The wages according to the terms of employment of an employee are either paid in cash or through other legal mode of payment. Wages include dearness allowances as applicable and implemented by different state governments from time to time but does not include any bonus, commission, house rent allowance or any other allowances.
- **Family :** Family in relation to an employee under the gratuity act is bifurcated under two different heads of male and female employees. For a Male employee, a family comprises of the employee himself, his wife and children. If the employee is not married, family also includes dependant parents. Family for a male employee also encompasses dependant parents of his wife and widow and children of his son if dead. For a Female employee family comprises of her husband and children, her dependant parents whether the female employee is married or unmarried and widow and children of her son if dead. Any child who is legally adopted as per the norms of the law shall be part of the family. Child of any employee adopted lawfully under the personal law is deemed to be excluded from the family of the employee.

3.4 ELIGIBILITY CRITERIA FOR PAYMENT OF GRATUITY :

Gratuity is payable to an employee on termination of employment after rendering a continuous service for not less than 5 years. The termination of employment may be on grounds of

- **Superannuation :** The dictionary meaning of this word is to retire. Superannuation in employer terms is a benefit that an organization offers to its employees under different schemes on retirement and different annuity options are there to choose for employees during the course of employment for the superannuation benefit.
- **Retirement :** It is withdrawal from one's position or work after a stipulated amount of time. The age for retirement varies from organization to organization and may be voluntary also as per the norms of an organization.
- **Resignation :** It is a formal act of quitting or leaving one's own position or office. In event of eligibility for gratuity, the employee shall work for 5 continuous years in the same organization before resigning.
- **Death or Disablement :** Under this ground the mandatory clause of 5 Years of active service is not applicable. In event of death of an employee the gratuity that was to be paid to him shall be paid to the nominee. If no nomination has been made by the employee, the gratuity shall be paid to the legal heirs of the employee. In event of a legal heir being a minor, the controlling authority (department of the State government) shall invest the money in a financial institution and hand over the money when the nominee attains adulthood. There may be situations where an employee leaves service temporarily due to disablement and may join service later on a reduced wage in a different position. In event of such an occurrence, the gratuity is computed in 2 parts one before the occurrence of the disablement based on the salary drawn during that period and one after the disablement based on the salary drawn.

3.5 ELIGIBILITY CRITERIA FOR GRATUITY :

The payment of gratuity is a lump sum benefit under the Payment of Gratuity Act, 1972. The maximum benefit that can be paid to an employee is Rs 20 lacs. The payment of higher gratuity than the ceiling limit depends on the employer. The calculation of gratuity is different for month rated, piece rated and seasonal employee. The basic considerations in calculation of gratuity are

- The wage considered for gratuity calculation is the last drawn salary.
- Other than Basic Salary and the dearness allowance, no other allowances are considered during the computation.

3.5.1 Calculation for Employees Paid Salary Per Month :

For employees who receive salary on a monthly basis gratuity is calculated on 15 Days of Wages (Basic and DA) of each year of completed service of the employee is taken into consideration. The services rendered by any employee for more than 6 months, is considered to be an year of service. The formula for computation is

$$\text{Gratuity} = (\text{Basic} + \text{DA}) \times 15 / 26 \times \text{number of years}$$

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An employee had worked for 10 years in an organization. His last drawn basic salary was Rs 10000 and the DA was Rs 5000, the gratuity payable to the employee would be

$$\begin{aligned}\text{Gratuity} &= (10000 + 5000) \times 15/26 \times 10 \\ &= \text{Rs } 86,538.46\end{aligned}$$

3.5.2 Calculation for Employees Paid under Piece Rating :

In case of Piece Rated employees, an average of the 3 months of salary is computed preceding the termination of the employee. After the average is calculated the computation is same as monthly rated employees

3.5.3 Calculation for Seasonal Employees :

In case of seasonal employees 7 days wages for each season of service completed by the employee is calculated. The rest of the calculation is same as monthly rated employees.

An employee worked every year in one season for 10 years. The Basic salary was Rs 10,000 and DA Rs 5000.

$$\begin{aligned}\text{Gratuity} &= 7/26 \times (10000 + 5000) \times 10 \\ &= \text{Rs } 40,384.62\end{aligned}$$

❑ Check Your Progress – 1 :

- Emoluments earned by an employee while on duty or leave is known as
 - Wages
 - Leave
 - Paid Out
 - Cash
- Payment of gratuity is applicable after an employee renders service in an organization for _____ years.
 - 2
 - 3
 - 4
 - 5
- In case of death of an employee during the course of job, the gratuity is paid to the nominee, on completion of _____ years of service by the employee
 - 2 years
 - 3 years
 - Service years are not applicable
 - Not paid to the nominee
- The wage calculated for payment of gratuity is
 - Average of one year's salary
 - Last drawn salary of employee
 - Average salary of term of employment
 - Amount fixed by organization

3.6 THE PROCESS FOR PAYMENT OF GRATUITY :

Organizations have different procedures for disbursement of gratuity. The same is computed by any organization in the full and final settlement of the employee. However, an employee can make a notification in the form of an application for gratuity to the concerned officials in any organization. It is the duty of the employer to compute the gratuity of an employee and notify the same to the eligible person and the controlling authority, specifying the amount of gratuity determined. Organizations that use software for salary computation and payroll, initiate the process faster through computations done by the software. The time frame allocated for payment of gratuity by the employer is 30 days from

the date it becomes payable. Delayed payment is liable to interest being computed on the gratuity and paid to the employee. The delay if is due to technical issues pertaining to the employee or if the employer has obtained permission from the regulating authorities seeking delayed payment then no interest is paid on the gratuity computed. Any dispute originating out of calculation of the gratuity is resolved by the controlling authority. In event of dispute the employer shall deposit the computation undertaken to the controlling authority.

3.7 DISPUTES AND RESOLUTION IN PAYMENT OF GRATUITY:

Disputes are very common wherever computation related to money is involved. In case of calculation of gratuity there are obvious chances of dispute between the employer and the employee. In event of dispute, the aggrieved party can make a representation through writing with all the supporting documents to the controlling authority. The state government appoints an inspector or inspectors who are deemed to be a public servant under Section 21 of Indian Penal Code for the purpose of ascertaining whether any of the provisions of this Act are being violated or not complied with and take necessary measures to ensure the fulfilment of all the provisions of this Act. Inquiries on registration of a complaint are ensured are both the parties are heard before a verdict related to same is being passed. The controlling authority has the powers to

- Enforce attendance of a person in an organization.
- Ask for documents pertaining to employment of employees in the organization.
- Receive evidence on affidavits.
- Issue notices for examination of witnesses.

The verdict of the authorities can be put forward for appeal if there is no amicable solution between the aggrieved parties. The appeal is put forward to an appellate authority as designated by the respective state governments. The process of appeal shall be undertaken within 60 days from the date of order of the controlling authority. In event of employers going for an appeal at the appellate, the sum as computed from the employer's side shall have to be deposited with the controlling authority before any such appeal. The appellate on hearing the aggrieved parties takes an appropriate decision regarding the same and may also reverse the decision undertaken by the controlling authority.

In event of non compliance by organizations in payment even after decisions made by the controlling authority, the authorities can file a formal complaint to the collector of the district and appropriate measures can be undertaken by the office of the collector against the employer.

3.8 FORFEITURE OF GRATUITY :

Gratuity payable to an employee can be wholly or partially stopped or forfeited by an organization due to the under mentioned circumstances.

- When the services of an employee is terminated by the organization for any wilful omission, act or negligence that causes damage or loss or destruction to the property belonging to the employer.
- The employee has been terminated on account of disorderly conduct or any act of violence

- The employee has been terminated on account of an offence committed during the course of employment.

3.9 NOMINATION FOR GRATUITY :

Nomination is essential for gratuity and the same can be undertaken by any employee after completion of one year of service with an organization. The employee can nominate a single or more than one nominee for the same and the amount payable can be distributed to more than one nominee. For employees who do not have a family or family members can nominate anyone deemed fit. However, the nomination becomes null and void in event of the employee acquiring a family through legal means in the later stage. A fresh nomination has to be filed by the employee in that case after acquiring a family. Any employee has the right to change the nomination filed under the act and the same shall be undertaken in prescribed format to the employer.

❑ Check Your Progress – 2 :

1. Computation of gratuity is done based on _____ days of wages each year of completed service by employee
 - a. 15
 - b. 20
 - c. 25
 - d. 30
2. During calculation of gratuity for piece rated employees, _____ months salary is considered
 - a. 1
 - b. 2
 - c. 3
 - d. 4
3. Time allocated for payment of gratuity is _____ days from which it is payable
 - a. 15
 - b. 20
 - c. 25
 - d. 30
4. In event of employee being terminated by the organization on grounds of causing damage
 - a. gratuity is paid to the employee
 - b. gratuity is not paid to employee
 - c. gratuity is paid to employee by court
 - d. None of the options

3.10 LET US SUM UP :

Gratuity is a financial assistance paid by an employer to an employee to support the employee after leaving the organization. To qualify for gratuity an employee must have worked for 5 years in an organization. The act defines various terms related to employment and criteria for payment of gratuity. The maximum benefit that an employee can get under the act is Rs 20 lacs. Payment of higher gratuity than the ceiling limit is at the discretion of the employer. For calculation of gratuity, the last drawn salary of an employee is considered and 15 days of work in a year for the number of years worked by the employee is undertaken. The act specifies the formula for calculating gratuity. All disputes related to payment of gratuity are resolved by the enforcing authorities under the purview of the act. Gratuity can be forfeited by the employer under different grounds as mentioned in the act. In event of death of an employee during service, the nominee of the employee is eligible for the gratuity.

3.11 ANSWERS FOR CHECK YOUR PROGRESS :

- ❑ **Check Your Progress 1 :**
 - (1 – a) Wages
 - (2 – d) 5 years
 - (3 – c) Service years not applicable
 - (4 – b) Last drawn salary of employee
- ❑ **Check Your Progress 2 :**
 - (1 – a) 15 days
 - (2 – c) 3 months
 - (3 – d) 30 days
 - (4 – b) Gratuity is not paid

3.12 GLOSSARY :

Emolument : Compensation based on time and length of activity.

Annuity : Series of payments done at regular intervals.

Superannuation : To become retired or to retire due to old age or infirmity.

Piece Rated : Refers to the wage system in which workers get paid at a fixed rate for a definite piece of job.

Forfeiture : Loss or giving up something as a penalty for wrong doing.

Nomination : Act of selecting a person to receive benefits post death in employment.

3.13 ASSIGNMENT :

List the various documents and forms required to be furnished by an employee to register under the payment of gratuity act.

Indicate the relevance of each document.

3.14 ACTIVITIES :

List some countries of the world where gratuity benefits are applicable.

List the benefits and compare with the Payment of Gratuity Act of India.

3.15 CASE STUDY :

Mr. Sharma worked for 6 years in an organization as a Supervisor and his last drawn salary was Rs 25000. Due to better opportunities he left the organization and joined another organization. The full and final payment was undertaken by the organization. Mr. Sharma had to relocate to different city for his new job. He became so busy in his new project that he forgot that he was eligible for gratuity which his previous organization had not paid. He wrote several emails to his last organization that were not replied. He called up the HR department to find that the team in HR was new and the company he was working for had merged with another company and there was a new management in place. He was asked to come personally with all his documents. After a year Mr. Sharma took out some time to visit his previous organization. When he showed all his documents of service, the HR said that the previous company does not exist

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anymore and the new management shall not be liable to pay any gratuity to employees of the previous company.

1. Can Mr. Sharma claim gratuity from the new company ?
2. Where and how shall he approach for getting his dues settled for gratuity ?
3. If he gets his dues how much shall he get in terms of gratuity ?

3.16 FURTHER READING :

1. www.clc.gov.in
2. www.incometaxindia.gov.in
3. The Payment of Gratuity Act, 1972 by Asia Law House
4. The Payment of Gratuity Act, 1972 by Satpal Puliani

Consumer Protection Act, 2019

UNIT STRUCTURE

- 4.0 Learning Objectives
- 4.1 Introduction
- 4.2 History of Consumer Protection Law in India
- 4.3 The Consumer
 - 4.3.1 Definition
 - 4.3.2 Rights of the Consumer
- 4.4 Legal Terms Pertaining to Consumer Protection Act 2019
- 4.5 Consumer Protection
 - 4.5.1 Consumer Protection Council
 - 4.5.2 Consumer Dispute Redressal Agencies
 - 4.5.3 Territorial Jurisdiction
 - 4.5.4 Pecuniary Jurisdiction
 - 4.5.5 Appellate Jurisdiction
- 4.6 Filing a Complaint under the Consumer Protection Act
 - 4.6.1 How to File a Complaint
 - 4.6.2 Portal for Assistance Under the Act
 - 4.6.3 Time Limit for Filing a Complaint
 - 4.6.4 Appeal Period
 - 4.6.5 Relief Available to Consumers from Consumer Forum
 - 4.6.6 Nodal Agency for Consumer Protection
- 4.7 Common Grounds for Filing a Complaint under the Consumer Protection Act in Aviation Sector
- 4.8 Let Us Sum Up
- 4.9 Answers For Check Your Progress
- 4.10 Glossary
- 4.11 Assignment
- 4.12 Activities
- 4.13 Case Study
- 4.14 Further Reading

4.0 LEARNING OBJECTIVES :

- To enumerate the evolution of Consumer Protection Act in India.
- To describe a consumer and the rights of a consumer under the act.
- To understand consumer protection and measures that a consumer can adopt for redressal of complaints.

4.1 INTRODUCTION :

Aviation is a huge sector that has evolved dynamically and has multipurpose interfaces where there is an interaction with the consumer who fly from one place to another and avail various services offered by different airlines and at airports across the world. Often consumers who avail product or a service are dissatisfied and have grievances to put across to get redressed. The government of India has empowered all the consumers with the right to put forward their grievances for timely and effective administration and settlement of disputes through the Consumer Protection Act 2019. This act is to protecting and promoting the interests of the consumers. The law looks into speedy resolution of all consumer related disputes. In this unit we shall look into who is a consumer and what rights are entitled to the consumer and how is it relevant to the perspective of aviation. The references that you shall study in this unit is based on Consumer Protection Act, 2019; however, you shall be acquainted to global perspectives also in the aviation sector.

4.2 HISTORY OF CONSUMER PROTECTION LAW IN INDIA :

Before 1950, during the British rule, consumer protection was managed through regulations and provisions of the British common law. The categorization of the laws were through Torts (Civil wrong), contracts (binding agreements) and trust based associations. Once the Indian Constitution came into existence after 1950, the Govt. of India implemented and enacted a lot of legal legislations to promote the interest of the consumer. These legislations were enacted between 1950 and 1986 and encompassed jurisdictions of various trades and trade practices. The Essential Commodities Act 1956, The Prevention of Food Adulteration Act 1954, The Drugs Control Act 1950 are some of the legislations amongst the many that the government implemented. These acts though were designed keeping the consumer at the forefront, however, these acts were not able to meet their objectives and consumers still were being exploited. A framework of the United Nations inspired and lead to the formation of the Consumer Protection Act 1986. The bill that was drafted was in lines of International standards and benefits that consumers enjoyed in some of the developed nations of the world. The Consumer Protection Act 1986, came into effect in 1986. The advantage of the act was that it was not singular in nature and brought a large number of goods and services under a single platform. The act was focussed on quick relief to the consumer and separate series of courts were formed. Complainants received recourse either through monetary compensation or correction of damages in the product or service. Various amendments were implemented in the act in 1991, 1993, 2002, 2019 to strengthen the act. In 2019, the entire Consumer Protection bill was reworked and introduced in the Parliament. After its approval in both houses of the Parliament, the Consumer Protection Act, 2019 came into force on 20th July 2020. The act gave more security and power to the consumer and brought under its ambit various selling platforms like e-commerce, online purchase, multi-level marketing and others. Thus, The Consumer Protection Act can be described as the "Common Man's Civil Court".

4.3 THE CONSUMER :

4.3.1 Definition :

A consumer is a person who buys any goods or avails a service for his/

her own use. The person is not a consumer if the goods or services availed is used for resale or for any commercial purpose. The purchase of the goods or services can be undertaken through any medium both online and offline. All Persons come under the category of consumers who have paid for the goods and services or have partly paid or have promised to pay or are under any deferred payment mode. A person hiring any Goods or Services is also a consumer.

"Goods" means every type of movable property and includes "food" as defined under the Food Safety and Standards Act 2006.

4.3.2 Rights of the Consumer :

The Consumer Protection Act, 2019 is to protecting and promoting the interest of consumer with respect to that it provide following rights :

- **Right to Safety :** protection against marketing of goods or services that may hazardous to life or property.
- **Right to Information :** To restrict any unfair practices of trade it is mandatory for manufacturer of products and services to make the consumer aware of the quality, quantity, purity, potency, standard and price of goods and services.
- **Right to Access/Choose :** The right to be assured and access to a large variety of goods and services at competitive prices.
- **Right to Represent :** The act gives emphasis on the right to be heard and assured that the interests of the consumers are of prime importance and same shall be treated with due diligence at the through a structured system and forum.
- **Right to Redressal :** The act gives the right to the consumer to get assistance and redressal against any malpractice of trade, restrictive practice of trade or exploitation in any form.
- **Right to Education :** The act also has the provision for the consumer to be aware of his rights related to a product or a service.

☐ Check Your Progress – 1 :

1. The Consumer Protection Act 2019 came into force on _____
 - a. 20th July 2019
 - b. 20th April 2019
 - c. 20th July 2020
 - d. 20th April 2020
2. A consumer is a person who buys goods for
 - a. Own use
 - b. Other's use
 - c. Resale
 - d. Distribution
3. When a seller gives less quantity of goods against a particular weight, it is
 - a. Trade Practice
 - b. Unfair trade practice
 - c. Malpractice
 - d. Monopoly
4. A complainant under the Consumer Protection Act can be
 - a. Consumer
 - b. Any voluntary organization on behalf of consumer
 - c. More than one consumer
 - d. All of the options

4.4 LEGAL TERMS PERTAINING TO CONSUMER PROTECTION ACT, 2019 :

In the section above you have understood who is a consumer and the rights of the consumer under the Consumer Protection Act, 2019. Whenever a consumer has a grievance with a product or a service and undertakes legal recourse under the act, he does it in writing and the same is known as a Complaint.

- **Complaint** : Complaint under Consumer Protection Act, 2019, is an allegation made in writing by a person known as the Complainant to get relief through legal recourse for acts pertaining to
 - Unfair trade practice undertaken by any trader or service provider.
 - Any restrictive trade practice adopted by a trader or service provider.
 - The goods purchased by the consumer or agreed to be purchased by the consumer have one or more defects.
 - The services that a consumer hired or agreed to hire have one or more deficiencies.
 - Prices charged by the trader or service provider is higher than the Maximum Retail Price printed or higher than the price exhibited by the trader or are higher than the ceiling price fixed by the government or are charged higher than as agreed between the consumer and the trader.
 - Goods and Services that are hazardous to life and safety are offered for sale and may be injurious or unsafe.
- **Complainant** : The source that brings a complaint under the purview of Consumer Protection Act is known as a complainant. A Complainant can be
 - Consumer of goods and services.
 - Voluntary Consumer Associations registered under law working on behalf of consumers.
 - More than one consumer when there is a same interest.
 - The State and Central government or competent authority on behalf of the consumers.
 - Legal representatives of Consumers in event of death.
 - Heir of Consumer in event of death.
 - Parent or Guardian of consumer in event of consumer being a minor.
- **Consumer Dispute** : When a complaint is registered against a firm or a person under the Consumer Protection Act 2019 for product or services and firm or the person denies or disputes the allegations levelled in the complaint it is known as a Consumer Dispute.
- **Goods** : Goods mean every movable good except for money and claims in terms of service. Goods can include items attached to a land like growing crops, grass etc.
- **Service** : "Service" means service of any description, which is made available to potential users and related to any sector. It shall not be free of charge, and it shall not be under a contract of personal services. E
- **Defect in Goods or Services** : Every good or Service has to have a standard quality, quantity, purity or potency to be maintained by a trader for goods

and services under any law or agreement or contract expressed or implied or as claimed by trader. Any shortcoming in the goods and services related to the above parameters is considered to be a defect.

- **Deficiency in Goods and Services :** The fault, imperfection or inadequacy in a product or service in its quality, performance or nature is known as deficiency.
- **Product Liability :** When a particular product causes harm to a consumer due to defective manufacturing or servicing or selling by a trader the same and a consumer files for compensation for the same, it is known as Product liability. Product liability encompasses manufacturing defects, design defects, do not adhere to specifications, do not conform to expressed warranties or do not have proper instructions for its usage. Under Section 84 of the act Product liability actions can be initiated against inadequate performance of product, deficient, imperfect, act of negligence during manufacture, service standards not adhering to as expressed. Product liability means a complaint filed by a person before a District, State or National commission as the case may be for claiming compensation for the harm caused to him.

Section 85 of the act refers to the liability of a Service provider under product liability. If the service provided by the service provider under the act is deficient, faulty, inadequate or imperfect, negligent by withholding information leading to harm caused, negligent without providing adequate instructions or warnings or conforming to express warranty or contractual terms leading to harm caused.

Product seller shall also be liable to product liability action, if there is substantial alteration or modification responsible for the harm caused. Even if the product seller exercises substantial control over manufacturing, testing, designing, labelling or packing of a product, liability action can be initiated. Failure of conformity and checking by the product seller before selling the product leads to liability action.

The exceptions to product liability actions are defined in the law.

Under Section 87 of the act, product liability actions cannot be brought against a seller if the person had misused or altered or modified the product resulting in harm to self. In event of product manufacturer providing adequate warnings for the use of the product, the product purchased was used as a part of another product leading to damage. Liability cannot be initiated in event of a consumer uses a product under influence of alcohol leading to damage or without involving any expert in case of recommendation specified by the manufacturer. Any dangers that are obvious and not mentioned by the manufacturer and not followed by the consumer are not liable to liability action.

- **Product liability Action :** It means a complaint filed by a person before a district commission or state commission or national commission as the case may be, for claiming compensation caused to him.
- **Harm :** In respect to Product liability "Harm" can be defined as
 - Damage to any property, other than the product itself.
 - Personal injury, illness or Death.

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- Mental agony or emotional distress attendant to personal injury or illness or damage to property.
- Any loss of consortium or services or other loss resulting from a harm.
- **Injury** : Any harm illegally caused to any person, in body mind and property.
- **Manufacturer** : Manufacturer can be defined as a person who
 - Makes any goods or parts thereof.
 - Assembles any goods or parts thereof made by others.
 - Puts or causes to put his own mark on any goods made by another person.
- **Unfair Trade Practice** : Unfair Trade Practices under Consumer Protection Act are implemented when spurious goods are offered for sale, no cash memo or bill is issued against goods sold or services given, no replacement or refund is offered on defective goods sold, personal information of consumer is being disclosed to another person without consent. Statements displayed at various shops like "No Exchange", "No Refund" or "Goods once sold will not be taken back" are statements that do not fall under legal purview and fall under the category of Unfair Trade Practice.
- **Misleading Advertisements** : Advertisement means any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, print, smoke, gas, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or any other documents.

Any false representation or a false guarantee for a product or service without revealing the essential information of the product or service is known as misleading advertisement.
- **False Representation** : When goods are not of standard quality, second hand goods renovated and sold as new, goods and services do not comply to claimed use or benefit, goods and services do not comply to claimed warranty or guarantee, misleading price, gifts or advertisement of product or service, goods and services not falling within safety standards as implemented, hoarding of goods, destruction of goods to increase the prices they fall under category of false representation of goods and services.
- **Unfair Contract** : The concept of unfair contract was introduced in 2019. Under Section 2(46) Unfair contract is referred to a contract between a consumer and a manufacturer or service provider or trader whose terms brings a change in consumer rights under the act. The terms of unfair contract are
 - Security deposit in excess to be paid by a consumer for facilitating performance of obligations under the contract.
 - Penalty for breach of contract on the consumer is disproportionate to the loss suffered due to such a breach.
 - Non acceptance of early debt repayment along with applicable penalty.
 - Allowing one of the parties to terminate the contract without any reasonable cause.
 - Entitling one party to the contract that leads to detrimental effect on the consumer without any his knowledge.
 - Imposing unreasonable condition, obligation or charge on the consumer that puts him in a position of disadvantage.

- **E Commerce** : Buying or selling of goods or services over digital or electronic network.
- **Endorsement** : In relation to advertisement endorsement means
 - Any message, verbal statement or demonstration.
 - Depiction of name, signature, likeness, or other identifiable personal characteristics of an individual.
 - Depiction of the name or seal of any institution or organization that make the consumer to believe that it reflects the opinion, finding or experience of the person making such endorsement.
- **Mediation** : The process by which a mediator mediates any consumer disputes.
- **Mediator** : A person empanelled by the Consumer Protection cell to undertake mediation.

4.5 CONSUMER PROTECTION :

You have acquainted yourselves to certain legal terms related to Consumer Protection. In this section you will learn about the machinery that has been put across by the law to protect the consumer. You have already learnt what a complaint is and who can be a complainant. You will learn how a complainant can register a complaint and where can he register the complaint.

4.5.1 Consumer Protection Council :

The Consumer Protection Act 2019, lays the provisions for establishment of Consumer Protection Councils at Centre, State and District levels. These Councils review policies and regulations related to consumers formulated by the government and work towards suggestive measures that can lead to improvements for protecting and promoting rights of the consumers. The structure of the councils has the Minister In-charge of Consumer Affairs at the Centre as the Chairman of the Central Consumer Protection Council which acts as the apex body. The Central Consumer Protection Council has a hierarchy of official and non-official members. The State Consumer Protection Council is headed by Minister In-charge of Consumer Affairs in the State and the District Consumer Protection Council is headed by the Collector of the District. These Councils are advisory in nature and their object is to protect the rights of the consumers enshrined under the Act.

4.5.2 Consumer Dispute Redressal Agencies :

Redressal in Consumer disputes according to the Consumer Protection Act is structured in a three tier system. The Structure has a forum at the District, State and National level each. The District Consumer Disputes Redressal Forum (DCDRF) is located at every district of the state constituted of 3 members. The head of the forum is equivalent to a district judge. One of the members out of the three should be a woman. The district forum entertains claims under the Consumer Protection Act for upto 1 crore. There is a State Consumer Disputes Redressal Commission (SCDRC) located in every State of India. The State Commission also consists of 3 members of which the head is equivalent to a judge of the high court of the state and one of the members is a woman. The monetary value of the complaints in the State commission is above 1 crore upto 10 crores. The National Consumer Disputes Redressal Commission (NCDRC) under the act

is located at New Delhi. The Head of the commission is a judge equivalent to that of Supreme Court and consists of total of 5 members with one of them as a woman. Complaints exceeding the value of Rs 10 Crore are filed in the National commission. All appeals of orders passed by the State commission are taken at the National level. The orders of the National commission can be challenged only in the Supreme Court.

4.5.3 Territorial Jurisdiction :

The Consumer Protection Act of 1986 allowed complainants to file complaints only in the city of the residence or business of the opposite party. The same has been repealed in 2019 and complainants now have the advantage of filing complaints in their city of residence or work.

4.5.4 Pecuniary Jurisdiction :

Pecuniary jurisdiction is related to the amount of money each consumer forum has rights to redress disputes in the structure. You have already studied that District Consumer forum has a pecuniary jurisdiction not exceeding rupees 1 crore whereas a State Consumer Forum has a pecuniary jurisdiction exceeding rupees 1 crore but less than rupees 10 crore and a National consumer commission has a pecuniary jurisdiction above Rupees 10 crore. After considering the pecuniary jurisdiction the territorial jurisdiction is considered under the act.

4.5.5 Appellate Jurisdiction :

Any decision that is given by the different commissions under the act can be appealed in the higher commission. A decision of the district commission can be appealed in the state commission within 45 days from date of order and the decision of the state commission in the National forum and that of the National forum in the Supreme court within 30 days from date of order.

4.6 FILING A COMPLAINT UNDER THE CONSUMER PROTECTION ACT :

4.6.1 How to File a Complaint :

Under the Consumer Protection Act,2019 the Complainant can file a complaint based on a plain paper with details of the opposite party and the complainant. Stamp paper is not required to file the complaint. Complaint can be registered in person or through an authorized agent of the person. Engaging a lawyer is not essential to register a complaint. A nominal fee depending on the commission i.e. district, state or national is charged. All complaints should have the necessary supportive documents to verify any claim. For Consumer disputes the consumer can become a pleader and the engagement of a lawyer is not mandatory. Complaints can also be registered through online mode.

4.6.2 Portal for Assistance under the Act :

Under the Ministry of Consumer affairs, Food and Public Distribution, there is National Consumer Helpline (NCH). The toll free number of the helpline is 1800114000 or 14404. The helpline operates from 9:30 AM to 5:30 PM all days except for National holidays.

The Government of India has launched a portal INGRAM (Integrated Grievance Redressal Mechanism). The portal creates awareness, provides advice, act as a central registry for lodging consumer grievances and redresses consumer grievances. A consumer who registers a grievance through the portal has to sign

up with an ID and a password and has to upload the necessary documents as required by the portal.

4.6.3 Time Limit for Filing a Complaint :

A complaint can be filed two years from any event that has occurred leading to a grievance to the complainant. Complaints can also be filed after 2 years if there is sufficient evidence that the forum deems fit to be taken into consideration.

4.6.4 Appeal Period :

The stipulated time period as mentioned in the act for an appeal in the higher appellate is 30 days, from the date of order, as issued by the National commission.

4.6.5 Relief Available to Consumers from Consumer Forum :

The commission according to its legal provisions and the nature of complaint by the complainant can undertake the following decisions pertaining relief to the complainant. They are

- Removal of defects from the product.
- Replacement of the Product.
- Removal of deficiency in services provided.
- Award of compensation for any loss or injury.
- Decree for discontinuation of any Unfair Trade Practice followed.
- Withdrawal of goods that may be potential hazards for others.
- Ban on services that cause harm or have deficiency.
- Seizure of Hazardous goods.
- Offering compensation to multiple consumers if loss is borne by them.
- Ban misleading advertisements of products and services.
- Provide adequate compensation to consumers.

4.6.6 Nodal Agency for Consumer Protection :

The nodal agency for protection of consumers is the Department of Consumer Affairs (DCA) which comes under the purview of Ministry of Consumer affairs. The website of the department is www.consumeraffairs.nic.in. The department ensures consumer advocacy and works towards

- Helping consumers make with information before making a choice
- Ensuring fair, equitable and consistent outcome for consumers
- Facilitating timely and effective redressal of grievances.

4.7 COMMON GROUNDS FOR FILING A COMPLAINT UNDER THE CONSUMER PROTECTION ACT IN AVIATION SECTOR :

The Aviation Industry in India is growing at a rapid pace with India emerging as a major economy of the globe. Travel to India on account of business and leisure has increased. Flights from across the globe fly to different cities of India. With low cost carriers taking centre stage domestic sectors too have rapidly increased. Airline companies are flying to every remote location of the country at an affordable price. The aviation sector involves multipurpose touch points

with customers be it at the airport or on the flight and involves a lot of areas that may lead to dissatisfaction or grievance. The aviation sector also comes under the purview of the Consumer Protection Act and travellers can lodge complaints in different consumer commissions for their grievances. The most common grounds for complaints in the aviation sector are

■ **Cancellation of Flights/ Rescheduling /Delays :**

This is the most common cause of complaint of passengers. In 2016 DGCA has chartered new rules related to compensation to passengers in event of airline denying boarding to a passenger as well as flight getting delayed by more than two hours or getting cancelled.

A case of Indigo Airlines in 2016 where a passenger who purchased a ticket of Indigo airlines from Hyderabad to Chennai from an agent by paying Rs 3016, was denied boarding after clearing all security check on grounds that his ticket was endorsed as cancelled. The person had to purchase a new ticket at Rs 6712 to travel as it was an emergency. With a lot of communication with the airline, ultimately the matter was resolved by the district consumer forum that directed the airline to refund the entire amount of Rs 9729 and offer a compensation of Rs 25000 to the passenger for denying him boarding without a valid reason.

■ **Misinformation given by Airline Staff or Poor Response :**

A Case of District consumer commission of Rangareddy district, 2016 in Andhra Pradesh awarded a compensation of nearly Rs 75000 where the luggage of the passenger went missing and the airline staff did not bother to respond properly nor attend the case filed at the district consumer forum for contest.

□ **Check Your Progress – 2 :**

1. When a product purchased do not have the mentioned potency, it is said that the product has a
 - a. Defect
 - b. Deficiency
 - c. Lower Strength
 - d. Diluted
2. Statement displayed in a shop "No Refund" is legally
 - a. Valid
 - b. Invalid
 - c. Partially Valid
 - d. None of the options
3. For consumer complaints up to Rs 1 crore the complaint is filed at
 - a. State Consumer commission
 - b. Central Consumer commission
 - c. District Consumer commission
 - d. Sessions Court
4. The jurisdiction of the consumer forum is related to the amount of money is known as
 - a. Territorial jurisdiction
 - b. Central jurisdiction
 - c. State jurisdiction
 - d. Pecuniary jurisdiction

4.8 LET US SUM UP :

People travelling by airlines often find products and services dissatisfying leading to grievances and disputes. The Government of India through the Consumer Protection Act, 2019, empowers the consumer to undertake legal recourse for timely and effective settlement of disputes. The consumer is a person who buys products or services for own use. According to the Consumer Protection

Act, 2019; the consumer has been given a lot of benefits and rights for protection of his/her interest from malpractices, unfair trade practices, marketing of potentially hazardous goods, right to awareness and several other aspects. The government has set up consumer protection councils at district, state and central levels for reviewing policies and regulations. The consumer redressal system is a 3 tier structure depending on the amount of money claimed in the process. Grievances of consumers can also be registered online and definite rules and regulations are available for due relief to the consumer from the consumer forum.

4.9 ANSWERS FOR CHECK YOUR PROGRESS :

Check Your Progress 1 :

(1 – c) 20th July 2020

(2 – a) Own use

(3 – b) Unfair Trade Practice

(4 – d) All of the options

Check Your Progress 2 :

(1 – a) Defect

(2 – b) Invalid

(3 – c) District Consumer Commission

(4 – d) Pecuniary jurisdiction

4.10 GLOSSARY :

Restrictive Trade Practice : A type of trade practice which has effect of preventing, distorting or restricting competition.

Complaint : A statement that something is unsatisfactory or unacceptable.

Deficiency : Lack of something to meet a desired standard.

Voluntary : Doing, giving or acting according to one's own free will.

Heir : Person legally entitled after the death of a particular person.

Potency : The power required of a particular article.

Commission : Place, situation, group where people exchange ideas or discuss issues.

4.11 ASSIGNMENT :

Make a list of 10 incidents where an airline passenger has been awarded resolution of grievance from the Consumer Commission.

List the cases under different categories and write the amount of compensation claimed and compensation awarded to the consumers under the Consumer Protection act.

4.12 ACTIVITIES :

List 5 countries and refer to the consumer protection laws of these countries.

Make a comparative study of the advantages and disadvantages of the laws in these countries considering the Consumer Protection Act of India as a benchmark.

4.13 CASE STUDY :

A passenger on his way to Mumbai from Terminal 3 of New Delhi airport for the first time had cleared his security check. The gate number printed on the boarding pass was 21. Since there was considerable amount of time for departure, the passenger started exploring the huge terminal building of the airport. The gate number for the departure of his scheduled flight was changed by the authorities and Terminal 3 being a silent airport no announcements was made for the same. At the stipulated time for boarding when the passenger reached gate 21, he found to his dismay that the monitor at the gate displayed boarding for a different airline and passengers waiting were also for a different destination. Upon his enquiry at the desk of the gate, the staff who were from a different airline were unable to help the passenger with the gate number of his flight. They directed him to check the Departure monitor that displayed the departure of all flights. On checking the Departure monitor, the passenger found that the gate number was missing in the display for his flight. He somehow managed to get hold of a staff of the airline he was scheduled to travel and was directed to gate 56. The distance was quite long as T3 at New Delhi airport is big. He somehow managed to reach gate number 56 but was stopped from boarding. The reason given by the staff was that the gates of the aircraft were closed. The passenger again went back to the desk of the airlines and had to book an alternate flight that was after 3 hours with an excess amount of Rs 1500.

1. Can the passenger claim recourse for the experience under the Consumer Protection Act ?
2. Where should the passenger approach for the claim under the Consumer Protection act and what are the documents that he needs to provide ?
3. If his original ticket price was Rs 4000, what should be the justified amount for his claim according to you ?

4.14 FURTHER READING :

1. www.indiacode.nic.in
2. www.consumeraffairs.nic.in
3. Law of Consumer by Avatar Singh

UNIT STRUCTURE

- 5.0 Learning Objectives
- 5.1 Introduction
- 5.2 Definition of Wages
- 5.3 Evolution of the Concept of Wages in India
- 5.4 The Payment of Wages Act
- 5.5 Maintenance of Records and Registers under Payment of Wages Act
- 5.6 Penalties under Payment of Wages Act
- 5.7 Hearing of Claims under the purview of the Act
- 5.8 Let Us Sum Up
- 5.9 Answers For Check Your Progress
- 5.10 Glossary
- 5.11 Assignment
- 5.12 Activities
- 5.13 Case Study
- 5.14 Further reading

5.0 LEARNING OBJECTIVES :

- To understand the concept of wages in India under the Payment of Wages Act.
- To enumerate the various aspects related to employees under the Payment of Wages Act.
- To list the redressal procedures for employees under the Payments of Wages Act.

5.1 INTRODUCTION :

The Government of India ensures that people working for certain class of jobs are not oppressed and their well being is taken into consideration. Wages are paid in lieu of work undertaken and often a lot of organizations indulge in malpractices like unnecessary deductions, late payments etc on one pretext or other. To regulate the same and protect the interest of the workers The Payment of Wages Act 1936 was passed to regulate the payment of wages for a defined class employed in different Industries. The act encompasses that wages are paid in the right form as defined by the government, at a stipulated time frame without any unauthorized deductions. The payment of wages act is implemented across the country. Aviation sector being interconnected to a lot of services and facilities employ people of all class who either work for airlines or work at the airport at different facilities. You need to be aware of the wage laws for the people of India while studying this programme. The act is important as you should be aware of the laws related to wages and identify and report any malpractices being carried by any employer pertaining to wages.

5.2 DEFINITION OF WAGES :

The term "Wages" as per sec2(iv) of the Payment of Wages Act "means all remuneration expressed in terms of money". Remuneration includes a person's salary, allowances or any payable component that the employer has expressed to pay or is implied to be paid to a person during employment. Payment for overtimes, work on holidays, bonus, termination of employment, allowances, schemes like provident fund or any court order all come under the purview of the act.

5.3 EVOLUTION OF THE CONCEPT OF WAGES IN INDIA :

With Industries developing in India a general practice amongst employers emerged in imposing fines for something or the other. This was common in factories and railways also. Deductions on medical treatment, education, interest on salary advances, charities, and religious practices were a common practice. There was no fixed date for payment of the wages by the employers. The Royal commission on Labour in 1931 took these matters into cognizance that led to the then British government to introduce a bill related to delay and deductions. The bill was enacted in 1936 and implemented in 1937. Based on the act, different state governments framed their rules with Maharashtra Payment of Wages Rules 1936 being the first.

5.4 THE PAYMENT OF WAGES ACT :

- **Structure of the Act :** The Payment of Wages Act has been framed in 3 parts.
 - The first part of the act deals with the regular payment of wages by the employer.
 - The second part of the act deals with the deductions that can be undertaken by any employer according to the purview of the act.
 - The Third part of the act encompasses the process of recourse from any injustice.
- **Applicability of the Act :** The act is applicable in factories , tramway services, air transport services (except to that of defence services of the Indian Air force), mines, quarry, jetties, plantation, workshop, construction, power supply and all organizations owned either by the Central, State or Private where protection of people employed under the purview of the act are applicable. The applicability of the act is to persons whose sum as wages do not exceed Rs 24000 per month. The figure for the same under the act is published by the Central Government through an official notification in the gazette.
- **Responsibility for Payment of Wages :** Every organization shall be responsible for the payment of all wages for the people hired by them for work and required to be paid. In a factory a Manager is responsible for payment of wages; in an Industrial unit or any other organization it is the responsibility of the supervisor engaging workers for tasks for payment of wages; for railways a person employed for the administration of a specified area shall be liable for payment of wages; persons designated by a contractor are responsible for payment of the wages.

- **Wage Periods :** Wage period according to the act has been fixed with a maximum ceiling period of month (30 days). No wage period can exceed one month. Wages can be paid on a daily, weekly, fortnightly or monthly basis to persons working.
- **Regular Pay :** The payment of wages as per the act shall be done before the 7th day of the month where the number of workers is less than 1000 and on the 10th day where the number is more than 1000. The mode of payment for employees covered under the act can be either by cash or in the bank account of the employee. Payment of Wages is not permissible in any type of kind.
- **Deductions :** Deductions of any kind that are unlawful are not permitted under the act except as permitted. Deductions are permissible under absence from duty, accommodation provided by employer for which deductions were decided as per contract by the employer (deduction for services), fines (with showing cause for the fine), advances in monetary terms and damage caused to goods in custody or money in custody of the person for which he/she was accountable officially. The total amount of fine that can be imposed on a person should not exceed 3% of the wages payable during the wage period. Fines cannot be recovered in instalments and cannot be recovered after a period of 90 days. Fines cannot be imposed upon an employee less than 15 years of age. The payment of wages is normally undertaken on a working day except for any special provisions of the government. Deductions are permissible for payment to cooperative societies, provident fund, Prime Minister Relief Fund, Life Insurance, Trade Union contribution and other insurance schemes as agreed upon by the employee and the different bodies.
- **Wages on Termination :** When an employee is terminated by an employer on grounds that are official and justified, the wages earned by the employee shall be paid within the 2nd working day from the date of termination. In event of terminations due to closure of the organization all dues are to be settled within the stipulated time frame.
- **Payment of Wages in case of death of an Employee :** In event of death of an employee the wages of the employee is paid to the nominee of the deceased. In case of nomination is not mentioned by the employee, the amount is deposited to the prescribed authorities who decide further for the appropriate course of action to be undertaken.

□ **Check Your Progress – 1 :**

1. Wages mean all remuneration in terms of
 - a. Money
 - b. Money and Kind
 - c. Kind
 - d. Schemes
2. The Applicability of the act is to persons whose wages do not exceed
 - a. Rs 20000
 - b. Rs 24000
 - c. Rs 28000
 - d. Rs 32000
3. The maximum ceiling limit for wage period under the act is
 - a. 26 days
 - b. 28 days
 - c. 30 days
 - d. 31 days
4. The payment of wages are to be done within _____ day of month where the number of workers are more than 1000
 - a. 1st
 - b. 3rd
 - c. 7th
 - d. 10th

5.5 MAINTENANCE OF RECORDS AND REGISTERS UNDER PAYMENT OF WAGES ACT :

According to Section 13 A of the Payment of Wages Act, every employer has to mandatorily maintain the following registers in a specified format. The registers are subject to scrutiny by the officials and have to be produced in courts of law in lieu of any case registered by the employee.

Registers and Records related to particulars of the employee, the nature of work performed by the person, the wages paid, the deductions made from the wages and all other details pertaining to the form as required.

Register related to fines/ deductions for damage or loss/ advances.

All registers and records shall have to be maintained for a period of 3 years after the last entry was made in the same. Records can also be computerized and maintained as an electronic data and kept under safe custody.

Under Section 14 of the Act, any State government may appoint inspectors under the act to verify records and registers of organizations. Every inspector appointed shall have the powers to make an enquiry in the premises of any organization, check records pertaining to employees, conduct search operations on the premises of an organization if required, supervise the payment of wages, undertake seizure procedure of documents and registers in respect of any offence as deemed fit.

5.6 PENALTIES UNDER PAYMENT OF WAGES ACT :

The act has several provisions of penalties where employers do not follow the provisions of the act and work as per their own set of rules. Penalties vary for contravention of different sections of the act and may include as mentioned below.

- Employers contravening section(s) 5, 7 8, 9, 10, 11, 12 and 13, which indicates timely payment of wages, payment of wages in current coins and currency, fines, deductions for damage/loss or recovery of advances and loans. In these cases the fine shall not be less than Rs 1000 extending up to Rs. 5000. On subsequent contraventions the fine shall be not less than Rs. 5000 may extending up to Rs. 10000.
- Employers failing to maintain registers, wilfully refusing or without lawful excuse neglecting to furnish information or refusing to answer or willfully giving a false answer to any question necessary for obtaining any information required to be furnished under this Act. For such offences the fine shall not be less than Rs. 1000 and may be extended up to Rs. 5000. For second or subsequent contravention the fine shall not be less than Rs. 5000 and may extend up to Rs. 10000.
- Employers obstructing an Inspector in discharge of duties and on refusal to produce of any register or other documents; the fine shall not be less than Rs. 1000 and is extendable up to Rs. 7500. On subsequent contravention the fine shall not be less than Rs. 5000 and may be extended up to Rs. 10000.
- Repeated contraventions of the above offences by employers, failing or neglecting to pay wages to any employee the provision of punishment shall be imprisonment not less than one month which may extend up to six

months and fine not less than Rs. 3750 extendable up to Rs. 20000. Additional fine up to Rs. 100 for each day may also be imposed.

5.7 HEARING OF CLAIMS UNDER THE PURVIEW OF THE ACT :

The State governments have proper machinery in place to hear and decide all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid, including all matters, incidental to such claims. An officer mentioned as under is appointed by the appropriate government for redressal of all issues. The Officer can be

- Commissioner from Workman's Compensation; or
- Officer of the Central government in the rank of Regional Labour Commissioner or Assistant Regional Labour Commissioner; or
- Presiding officer of the labour court or Industrial tribunal constituted under the Industrial Disputes Act.
- Any Judge of the Civil court or a Judicial Magistrate.

When an employer fails to the rules as laid down by the payment of the wages act, representation of the same to the appropriate authorities can be made by a lawyer, an inspector or any registered trade union authorized within 12 months from such incidence. For a group representation in purview of the act, a single application on behalf of the group can be made to the appropriate authorities. The authorities have the power to enforce corrective steps as per the act. Any decision that is not satisfactory can be appealed at the district court.

□ Check Your Progress – 2 :

1. In event of death of an employee, the pending wages of the employee are given to
 - a. Nominee of employee
 - b. Kept with the organization
 - c. Deposited in Employee Provident Fund
 - d. Deposited to the government
2. Registers related to the Payment of Wages Act are to be maintained by an employer for
 - a. 1 Year
 - b. 3 Years
 - c. 5 Years
 - d. As long as employee works
3. Refusal to produce registers under the Payment of Wages act during inspection leads to fine of
 - a. Rs 100
 - b. Rs 500
 - c. Rs 1000
 - d. Rs 1500
4. Cases under Payment of Wages Act may be brought within _____ months of incidence.
 - a. 3 months
 - b. 6 months
 - c. 9 months
 - d. 12 months

5.8 LET US SUM UP :

The payment of Wages Act was implemented to regularize various aspects related to payment of wages by employers to their employees. The act was indicated at preventing any malpractices followed by any employer towards their

employees in terms of payment of wages. The act is applicable across the country for employees earning a monthly salary of Rs 24000 or less. The act primarily encompasses the aspects of regular payment of wages by the employer, the deductions that can be undertaken by any employer under the purview of the act and the process for recourse from any incident that may have occurred with an employee related to the payment of wages.

5.9 ANSWERS FOR CHECK YOUR PROGRESS :

❑ **Check Your Progress 1 :**

- (1 – a) Money
- (2 – b) Rs 24000
- (3 – c) 30 Days
- (4 – d) 10th

❑ **Check Your Progress 2 :**

- (1 – c) Employee
- (2 – b) 3 years
- (3 – c) Rs 1000
- (4 – d) 12 months

5.10 GLOSSARY :

Remuneration : The money paid for any work or service rendered.

Overtime : The amount of time worked beyond stipulated working hours.

Bonus : The sum of money added to a person's wages in addition to the base salary.

Allowance : A sum of money paid regularly to a person to meet certain expenses.

Gazette : The official public journal and legal document of Government of India.

5.11 ASSIGNMENT :

Make a list of the different registers and files that the Human Resource department of an organization employing more than 2000 persons need to maintain for adhering to various statutory compliances.

Write the importance/ relevance of each register/file corresponding to the employee.

5.12 ACTIVITIES :

List the different industries where the legal permissible age to work is below 18 years.

Make a list of the duties, responsibilities, functions and norms of employees below 18 years of age employed in these industries.

5.13 CASE STUDY :

A person joined a factory unit making spare parts for automobiles under contractual labour on the 1st of January. The contractor did not give any document for employment. The person completed one month working at the factory and on the 10th of February when he asked for his salary from the contractor, he replied that the same shall be undertaken on the 15th of February. The salary of the person was not paid on the 15th and soon the contractor was unreachable over the phone. The person approached the Human Resource department of the company only to be told that no record of his employment exists in the company and he should contact the contractor for resolution of his problem. The next day when the person went for work he was denied entry as no records of his existed in the company and was asked to speak to the contractor for further resolution of his problems?

- a. In the above scenario enumerate the fault of the contractor, organization and the employee ?
- b. Can the employee recover his one month's salary and how ?
- c. What recourse can the employee take legally under the payment of wages act ?

5.14 FURTHER READING :

1. www.labour.gov.in
2. www.cglabour.nic.in
3. www.clc.gov.in

BLOCK SUMMARY :

Organizations across the world implement diverse mechanisms to make their work place healthy and efficient. The index of efficiency in every organization depends on a lot of regulatory factors for their employees. These regulatory factors can be driven by the laws of the land, enforced by the government or may be extended by organizations in addition to the enforced legal requirements. Airline companies have multiple roles in an operational set up. They employ diverse manpower for their operations on the ground as well as in the air. A structured hierarchy ensures that manpower is utilized according to the job requirement and potential, in different roles for making the complex set of operations easy. The block has provided you with an awareness of the various industrial legislation laws that are prevalent in India and are essential for creating a healthy work environment. The laws are formulated by the government as clear set of guidelines, measures and initiatives for employers and employee and are designed to protect the interest of both leading to better coordination and a healthy workplace. The block also makes you aware about the rights of a consumer. The business of aviation is driven by consumers who interact with the different products and services offered by the airline companies. There may be situations where a consumer may not find the product or service according to his expectations due to some untoward incident and may initiate a legal recourse for the same. The knowledge about the rights of the consumer and the legal approach that can be undertaken are described in the block. As a student of aviation the different legislative laws as discussed in the block related to the employee, employer and the consumer shall help you to understand the different measures that are practically implemented in the work sphere and shall also guide you in your future course as a professional in the industry.

BLOCK ASSIGNMENT :

1. Define the concept of wages and its payment under the payment of wages act ?
2. How can social initiatives like provident fund, gratuity and employees health insurance scheme lead to a motivated workforce in an organization ?
3. Who is a consumer ? What are the rights of a consumer ? What is the process for a consumer to file a redressal against a bad product or service ?