

LEGISLATIVE PROPOSAL

1. TITLE OF THE PROPOSAL

- 1) Type of Legal Measure: **Civil Aviation Act (Amendment) Bill**
- 2) Lead Ministry/Commission/Agency: **Ministry of Infrastructure and Transport**
- 3) Expected Date of Adoption Day/Month/Year:

2. PROBLEM IDENTIFICATION

The Civil Aviation Act 2016, while providing a fundamental legal framework, exhibits several critical shortcomings that undermine effectiveness, consumer protection, environmental safeguards, alignment with international standards, and future readiness.

The key problems identified are:

1) Fragmented institutional roles

The Act does not clearly separate the mandates of the Ministry, the Bhutan Civil Aviation Authority (BCAA), and service providers. This lack of clear separation between policy-making, regulation, and service delivery results in conflicts of interest and weak accountability. Thus, the Act needs to be amended in line with the Civil Service Reform Act 2022.

2) Regulatory gaps in safety oversight

Provisions on aviation safety are limited and insufficiently harmonized with International Civil Aviation Organization (ICAO) standards and recommended practices. Key gaps include the absence of a comprehensive State Safety Program, weak emphasis on Safety Management System, and lack of an independent mechanism for accident and incident investigation. Moreover, the Act does not provide clear provisions for dealing with unruly passengers or evolving aviation security threats, thereby exposing vulnerability in safety oversight.

3) Weak Consumer Protection and passenger rights

The Act does not safeguard passengers' rights, such as compensation for flight delays, cancellations, or mishandled baggage. There is no mechanism for dispute resolution between passengers, airlines, and airports.

In the event of an accident, insurance and compensation obligations for passengers are not clearly addressed, leaving a critical gap.

4) Gaps in addressing emerging technologies

The Act lacks provisions for the regulation of Unmanned Aircraft Systems (drone/UAS), advanced air mobility, digital aviation technologies, UAS traffic management, and cybersecurity threats. The absence of such provisions creates regulatory gaps that may compromise aviation safety, security, and innovation in Bhutan's rapidly changing aviation landscape.

5) Environmental and sustainability concerns

Despite Bhutan's constitutional commitment to environmental preservation, the Act lacks provisions for mitigating noise pollution, controlling emission, or promoting sustainable aviation practices.

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6) Economic regulation deficiency

While safety is the core focus, the Act does not adequately address the economic dimension of aviation. There are no clear provisions on airline competition, tariffs, or market liberalization.

Further, the Act does not provide legal support for public-private partnerships or private investments in aviation infrastructure, limiting opportunities for sectoral growth and modernization.

7) Future readiness

Although the Act empowers the Ministry and BCAA to make rules and regulations, it does not provide a framework for drone, aviation cybersecurity, and space-related aviation activities. This limits Bhutan's capacity to adapt to emerging challenges in the aviation sector.

3. OBJECTIVE OF THE PROPOSAL

3.1 The main objectives of the Bill, amongst others, are as follows:

- 1) Address the gaps mentioned above.
- 2) Effect amendments in alignment with the Civil Service Reform Act, 2022.
- 3) Align Bhutan's civil aviation with international standards, ensuring conformity with global aviation norms and requirements.
- 4) Ensure aviation safety and security, including accident investigations.
- 5) Define institutional roles and responsibilities.
- 6) Regulate licensing, certification, and operations.
- 7) Streamline and enhance regulatory processes, making them more efficient, transparent, and responsive to the dynamic nature of the aviation industry;
- 8) Promote consumer protection.
- 9) Facilitate growth and efficiency in aviation.
- 10) Provided rule-making and enforcement powers.
- 11) Ensure sustainability and future readiness.
- 12) Provide a conducive regulatory environment that promotes the growth and sustainability of civil aviation, fostering economic development and connectivity.
- 13) Facilitate international cooperation and collaboration in civil aviation matters.
- 14) Adaptation to technological advancements.

3.2 The expected outcome of the proposal are:

- 1) Clear institutional roles.
- 2) Enhance safety and security.
- 3) Compliance with international obligations.
- 4) Operational improvements.
- 5) Better governance and accountability.
- 6) Inclusive legal and regulatory framework.

4. POLICY OPTIONS

4.1 Options:

1. Status Quo (Retain Existing Civil Aviation Act): Existing gaps remain, non-alignment with the international requirements and emerging technologies, and institutional overlap persist.
2. Partial Amendment (targeted updates): fragmented legal framework persists, and piecemeal amendments may require frequent updates. Further, limited ability to accommodate new technologies and international standards fully.
3. **Comprehensive Amendment (Preferred Option):** Clear institutional roles, align with international standards, strengthen provision including accident investigation, and accommodate emerging technologies. Further, ensure a robust, future-ready, and internationally compliant legal framework.

To address the gaps mentioned above, to align with the Civil Service Reform Act 2022 for institutional changes and improvements within the aviation sector, and to address the requirements set by the ICAO, the Office of the Attorney General validated the requirements and recommended amendment to the Civil Aviation Act, 2016.

Therefore, there is no other option to achieve the objective than to amend the Civil Aviation Act, 2016.

4.2 Subsidiarity and Proportionality:

The Bill:

- 1) retains strategic oversight, policy guidance, rule-making power, and international negotiations function with the Ministry.
- 2) Entrust all regulatory aspects of civil aviation, including licensing of personnel and aircraft, to the BCAA.
- 3) All operational matters, like airport management, are delegated to the Department of Air Transport.

The provisions of the Bill are proportionate, targeting gaps without imposing unnecessary burden. The Bill aims to meet ICAO requirements and allow flexibility for emerging technologies.

5. IMPACTS – POSITIVE AND NEGATIVE

5.1 Economic Impacts

a) Positive:

- Improved regulatory framework encourages the growth of the aviation sector.
- Increased connectivity and trade.
- Expansion of aviation and related sectors generates employment opportunities.
- Safer, efficient air transport attracts more tourists, benefiting local economies.

This Bill is poised to enhance the safety, reliability, and efficiency of air transport, which will accelerate economic growth and contribute to inclusive development, and ensure compliance with international standards.

b) Negative:

No negative impacts anticipated.

5.2 Social Impacts

c) Positive:

- Improved passenger safety through stricter safety regulations.
- Expanded service and the introduction of new mobility will enhance accessibility.
- Training programs for aviation personnel improve skills and career opportunities.

This Bill aims to optimize the well-being of people by ensuring the safety, reliability, and efficiency of air transport. Moreover, this Bill will also help accelerate economic growth, enhance productivity and investment, and elevate the overall living standard of the people.

d) Negative:

No negative impacts anticipated.

5.3 Environmental Impacts

a) Positive:

- A clear legislative framework can include fuel efficiency, emission control, and sustainable operations.
- Airports and airlines will be required to follow environmental management standards.

b) Negative:

Growth in flights may contribute to carbon footprint and noise pollution. However, it will stimulate economic growth, and careful environmental management and cost mitigation strategies will be required to balance potential negative effects.

5.4 Who would be affected:

- a) Ministry of Infrastructure and Transport.
- b) Bhutan Civil Aviation Authority.
- c) Airlines.