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नागर विमानन मंत्रालय

अधिसूचना

नई दिल्ली, 13 अप्रैल, 2023

सा.का.नि. 291(अ).—जबकि, वायुयान (निर्माणों और वृक्षों आदि द्वारा कारित बाधाओं का उन्मूलन) नियम, 1994 में संशोधन करने के लिए कतिपय नियमों का प्रारूप, वायुयान अधिनियम, 1934 (1934 का 22) की धारा 14 द्वारा यथोपेक्षित, भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) में सा.का.नि. संख्या 600 (अ) तारीख 25 जुलाई 2022 द्वारा प्रकाशित किया गया था, जिसके द्वारा इससे प्रभावित होने की संभावना वाले सभी व्यक्तियों से आपत्तियां और सुझाव उस तारीख जब उक्त अधिसूचना वाले राजपत्र की प्रतियां जनता के लिए उपलब्ध कराई गई थीं, से तीस दिनों की अवधि की समाप्ति के पूर्व आमंत्रित किए गए थे;

और जबकि, उक्त अधिसूचना अंतर्विष्ट करने वाले राजपत्र की प्रतियां जनसाधारण को तारीख 25 जुलाई 2022 को उपलब्ध करा दी गई थीं;

और जबकि, विनिर्दिष्ट अवधि के भीतर प्रारूप नियमों के संबंध में जनता से कोई आपत्ति या सुझाव प्राप्त नहीं हुए हैं;

अतः, अब, वायुयान अधिनियम, 1934 (1934 का 22) की धारा 9 क द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, वायुयान (निर्माणों और वृक्षों आदि द्वारा कारित बाधाओं का उन्मूलन) नियम, 1994 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्: -

1. **संक्षिप्त नाम और प्रारंभ** - (1) इन नियमों का संक्षिप्त नाम वायुयान (निर्माणों और वृक्षों आदि द्वारा कारित बाधाओं का उन्मूलन) (संशोधन) नियम, 2023 है।

(2) ये राजपत्र में इनके अंतिम प्रकाशन की तारीख से लागू होंगे।

2. वायुयान (निर्माणों और वृक्षों आदि द्वारा कारित बाधाओं का उन्मूलन) नियम, 1994 (जिसे इसमें इसके पश्चात् उक्त नियम कहा गया है) में, नियम 3 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात्:-

"3. स्वामी पर अधिसूचना की तामील और उल्लंघन के संबंध में रिपोर्ट प्रस्तुत करना.- (1) जहां कोई अधिसूचना अधिनियम की धारा 9 क की उपधारा (1) के अधीन केन्द्रीय सरकार द्वारा निकाली गई है और संबद्ध विमानक्षेत्र के भारसाधक अधिकारी के पास यह विश्वास करने का कारण है कि कोई निर्माण या वृक्ष पूर्वोक्त अधिसूचना के उपबंधों का अतिक्रमण करते हुए विद्यमान है, वहाँ वह, यथास्थिति, निर्माण या वृक्ष के स्वामी को उक्त धारा की उपधारा (3) में अधिकथित प्रक्रिया के अनुसार अधिसूचना की प्रति तामील करेगा।

(2) संबद्ध विमानक्षेत्र का भारसाधक अधिकारी, नागर विमानन महानिदेशक या इस संबंध में उसके द्वारा प्राधिकृत किसी अधिकारी को ऐसे अतिक्रमण की रिपोर्ट तत्काल भेजेगा।";

3. उक्त नियमों में, नियम 4 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात्:-

"4. ब्यौरे प्रस्तुत करने का आदेश- (1) जहां, नियम 3 के उप-नियम (2) के अधीन कोई रिपोर्ट, नागर विमानन महानिदेशक या इस संबंध में उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा प्राप्त की जाती है, तो वह एक लिखित आदेश द्वारा, ऐसे निर्माण या वृक्ष के स्वामी को, इस आदेश की प्राप्ति से साठ दिन से अनधिक की अवधि के भीतर, विमानक्षेत्र के भारसाधक अधिकारी को निर्माण, या वृक्ष के स्थान को दर्शाने वाला एक रेखांकन प्रस्तुत करने के साथ-साथ उसके आयाम या आदेश में विनिर्दिष्ट अन्य ब्यौरे भी प्रस्तुत करने का निदेश देगा।

परंतु यह कि युक्तिसंगत आधार प्रस्तुत करने पर महानिदेशक द्वारा साठ दिन की इस अवधि को, और साठ दिन के लिए बढ़ाया जा सकेगा।

(2) जहां, उप-नियम (1) के अधीन आदेश जारी किया जाता है, वहाँ स्वामी आदेश में यथाविनिर्दिष्ट जानकारी और ब्यौरे प्रस्तुत करने के लिए बाध्य होगा।

(3) अधिनियम की धारा 9 क की उप-धारा (3) में अधिकथित रीति में उप-नियम (1) के अधीन एक आदेश स्वामी पर तामील किया जाएगा।

(4) यदि यथास्थिति, साठ दिनों की अवधि के भीतर या महानिदेशक द्वारा विस्तारित अवधि, के भीतर, उप-नियम (1) के अनुसार ब्यौरा प्रस्तुत नहीं किया जाता है, तो विमानक्षेत्र प्रचालक द्वारा प्रस्तुत ब्यौरे को ही अंतिम माना जाएगा।";

4. उक्त नियमों के, नियम 7 में, उप-नियम (2) के पश्चात्, निम्नलिखित उप-नियम अंतःस्थापित किया जाएगा, अर्थात्

"(3) कोई भी स्वामी, जो अधिनियम की धारा 9 क के अधीन अधिसूचना के प्रवर्तन की तारीख के पश्चात्, अधिसूचना के उपबंधों का अनुपालन न करते हुए, किसी भी संरचना का निर्माण या परिनिर्माण करता है, तो वह उप-नियम (2) के अधीन प्रतिकर का दावा करने का पात्र नहीं होगा।

[फ़ा. सं. AV-11012/3/2022-DG]

सत्येंद्र कुमार मिश्रा, संयुक्त सचिव

टिप्पण : मूल नियम, भारत के राजपत्र में अधिसूचना संख्या सा.का.नि. 227, तारीख 28 अप्रैल, 1994 को प्रकाशित किए गए थे और अंतिम बार सा.का.नि. 314(अ) तारीख 25 मई, 2006 द्वारा भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (i) तारीख 25 मई, 2006 में प्रकाशित किए गए थे।

MINISTRY OF CIVIL AVIATION

NOTIFICATION

New Delhi, the 13th April, 2023

G.S.R. 291(E).—Whereas, the draft of certain rules further to amend the Aircraft (Demolition of Obstructions caused by Buildings and Trees etc.) Rules, 1994, was published as required by section 14 of the Aircraft Act, 1934 (22 of 1934) vide number G.S.R. 600 (E), dated the 25th July, 2022 in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which Gazette containing the said notification were made available to public;

And whereas, copies of the Gazette containing the said notification were made available to the public on the 25th July, 2022;

And whereas, no objections or suggestions have been received from the public in respect of draft rules within the period specified;

Now, therefore, in exercise of the powers conferred by section 9A of the Aircraft Act, 1934 (22 of 1934), the Central Government hereby makes the following rules further to amend the Aircraft (Demolition of Obstructions caused by Buildings and Trees etc.) Rules, 1994; namely: -

1. **Short title and commencement.** — (1) These rules may be called the Aircraft (Demolition of Obstructions caused by Buildings and Trees etc.) (Amendment) Rules, 2023.

(2) They shall come into force on the date of their final publication in the Official Gazette.

2. In the Aircraft (Demolition of Obstructions caused by Buildings and Trees etc.) Rules, 1994 (hereinafter referred to as the said rules), for rule 3, the following rule shall be substituted, namely:

“3. Service of Notification on the owner and **submission of report regarding violation.**—(1) Where any notification has been issued by the Central Government under sub-section (1) of section 9A of the Act and the officer- in-charge of the concerned aerodrome has reason to believe that any building or tree exists in violation of the provisions of the aforesaid notification, he shall serve a copy of the notification on the owner of the building or tree, as the case may be, in accordance with the procedure laid down in sub- section (3) of said section.

(2) The officer-in-charge of the concerned aerodrome shall forthwith send a report of such violation to the Director General of Civil Aviation, or any officer authorised by him in this behalf.”;

3. In the said rules, for rule 4, the following rule shall be substituted, namely: —

“4. **Order to furnish details.** — (1) Where, a report under sub-rule(2) of rule 3 is received by the Director General of Civil Aviation, or any officer authorised by him in this behalf, he shall, by a written order, direct the owner of such building, or tree, to furnish to the officer-in-charge of the aerodrome, within a period not exceeding sixty days of receipt of the order, a plan showing the location of building, or tree, and also disclosing the dimensions or any other details specified in the said order.

Provided that the period of sixty days may be extended by another sixty days by the Director-General on submission of reasonable grounds.

(2) Where, an order is issued under sub-rule (1), the owner shall be bound to furnish the information, and such details, as specified in the order.

(3) An order under sub-rule (1) shall be served upon the owner in the manner as laid down in sub-section (3) of section 9A of the Act.

(4) In case the details are not submitted as per sub-rule (1) within the period of sixty days or within the period extended by the Director-General, as the case may be, the details submitted by the Aerodrome Operator may be considered as final.”;

4. In the said rules, in rule 7, after sub-rule (2), the following sub-rule shall be inserted, namely:-

“(3) Any owner who, after the date of coming into force of the notification under section 9A of the Act, constructs, or erects any structure in non-compliance of the provisions of the notification shall not be eligible to claim compensation under sub-rule (2).”.

[F. No. AV-11012/3/2022-DG]

SATYENDRA KUMAR MISHRA, Jt. Secy.

Note : The principal rules were published in the Gazette of India, *vide* notification number G.S.R. 227, dated the 28th April, 1994, and last amended *vide* G.S.R. 314(E), dated the 25th May, 2006 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 25th May, 2006.

The Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994, as amended by notifications No. GSR 302 dated 20th August, 1999 and GSR 267(E) dated 9th April, 2002 are reproduced below.

Chapter V

The Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994

G.S.R. 227 – WHEREAS the draft of the Aircraft (Demolition of Obstructions caused by Buildings and Trees etc.) Rules, 1993 was published as required by section 14 of the Aircraft Act, 1934 (22 of 1934) at page 1265-1266 of the Gazette of India, Part II, Section 3, Sub-section (i) dated the 14th August, 1993 with the notification of the Government of India in the Ministry of Civil Aviation and Tourism No. GSR 406 dated the 29th July, 1993 inviting objections and suggestions from all persons likely to be affected thereby;

AND WHEREAS the said notification was published in the Gazette of India on 14th August, 1993;

AND WHEREAS no objections and suggestions were received on the said draft rules.

NOW, THEREFORE, in exercise of powers conferred by sub-section (2) of sections 11B of the Aircraft Act, 1934 (22 of 1934) the Central Government hereby makes the following rules to provide for the demolition of buildings and cutting of trees around aerodromes namely

1. Short Title and extent – (1) These rules may be called the Aircraft (Demolition of obstructions caused by Buildings and Trees etc.) Rules, 1994.

(2) They extend to the whole of India

(3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions and Interpretation – In these rules, unless there is anything repugnant in the subject or context, -

(1) “Act” shall mean the Aircraft Act, 1934 (22 of 1934)

(2) “Aircraft” and “Aerodrome” shall have the same meaning as in the Aircraft Act, 1934.

(3) “Building” shall include any structure, whether permanent or temporary, erected within a specified area around an aerodrome.

(4) “District Collector” shall include Deputy Commissioner, District Magistrate or any other designation used by any State Government for the Officer-in-Charge of the District Administration.

(5) "Owner" shall include the person having the control of the building or tree, as the case may be.

(6) "Officer-in-Charge of an Aerodrome" shall mean the officer holding charge of the airport by whatever designation known.

3. Notification to be served – Where any notification has been issued by the Central Government under sub-section (1) of Section 9A of the Act and the officer-in-charge of the concerned aerodrome has reason to believe that any building or tree exists in violation of the provisions of the aforesaid notification, he shall serve a copy of the notification on the owner of the building or tree, as the case may be, in accordance with the procedure laid down in sub-section (3) of Section 9A of the Act.

4. Owner to furnish details – (1) The service of the copy of the notification under rule 3 shall be accompanied by an order of the Director General of Civil Aviation or any other officer of the Civil Aviation Department authorized by him in this behalf directing the owner to furnish to the officer-in-charge of the aerodrome, within a specified period, a plan showing the location of the building or tree, as the case may be, and also its dimensions or any other details specified in the order.

(2) The owner shall be bound to furnish the details asked for in the order passed under sub-rule (1).

5. Forwarding the details and their physical verification – (1) The details furnished by the owner of the building or tree, as the case may be, shall be forwarded by the officer-in-charge of the aerodrome to the Director General of Civil Aviation with his comments.

(2) Before forwarding the details to the Director General of Civil Aviation, the officer-in-charge of the aerodrome shall satisfy himself about the correctness of the details and for that purpose he shall be empowered to enter the premises in question and carry out physical verification of the dimensions of the building or tree, as the case may be, during day light hours and with reasonable prior notice to the owner, who shall be duty bound to extend full cooperation during such physical verification.

Provided that in a case where the owner fails to cooperate, the officer-in-charge of the aerodrome shall be free to forward details to the Director General of Civil Aviation with his comments based on whatever verification is possible.

6. Final Order – (1) If a Joint Director General or a Deputy Director General of Civil Aviation, on an examination of the details forwarded to him by the officer-in-charge of the aerodrome, is satisfied, after giving the owner an opportunity of being heard, that the building or tree in question does violate the provisions of the notification issued by the Central Government under sub-section (1) of section 9A of the Act, he shall pass a final order in the matter directing the owner to demolish the building, or to cut the tree, or to reduce the height of the building, or the tree, as may be required for compliance with the provisions of the notification, within a specified period. In case of

reduction in the height of the building, or tree, as the case may be, the permissible height shall also be specified in the order:

Provided that in a case where the owner has failed to furnish details in response to the order under rule 4, a Joint Director General or a Deputy Director General of Civil Aviation shall be empowered to pass a final order based on information made available to him by the officer-in-charge of the aerodrome, or any other reliable source.

(2) The final order passed under sub-rule(1) shall be served on the owner through the officer-in-charge of the aerodrome, in accordance with the procedure laid down in sub-section (3) of Section 9A of the Act.

6A. Appeal against the final order – If any person is aggrieved by the final order passed under rule 6, he may prefer an appeal to Director General of Civil Aviation within sixty days of the date of the order and the Director General shall after hearing the concerned parties, desirous of being heard, either confirm or modify or reject the final order.

7. Owner to comply with order – (1) The owner shall comply with the directions contained in the final order passed under rule 6 or confirmed or modified under rule 6A, as the case may be, within a period of sixty days from the date of such order.

(2) The owner may claim compensation in accordance with the provisions contained in section 9B of the Act.

8. Non-compliance to be reported to the District Collector – (1) If the owner fails to carry out the directions contained in the order passed under rule 6 or confirmed or modified under rule 6A, as the case may be, within a period of sixty days from the date of such order, the officer-in-charge of the aerodrome shall report the matter to the District Collector giving brief facts of the case and a copy of the final order passed under rule 6 or confirmed or modified under rule 6A, as the case may be.

(2) On receiving the report from the officer-in-charge of the aerodrome, the District Collector shall carry out forthwith the demolition of the building or the cutting of the tree or reduction in height of the building, as the case may be, in the same manner and by the same procedure as is followed in case of demolition of any unauthorized construction in his district.

*[Amended by (i) G.S.R No. 314(E) dated 25th May, 2006; and
(ii) G.S.R No. 202(E) dated 20th September 2007]*