GNLU CENTRE FOR LAW & ECONOMICS

Policy Recommendations

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Comments to the Ministry of Civil Aviation for notification of draft Aircraft (Carriage of Dangerous Goods) Rules, 2025.

Comments on behalf of the Policy Inputs Research Group GNLU Centre for Law & Economics

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I. INTRODUCTION

The Aircraft (Carriage of Dangerous Goods) Rules, 2025 are a timely rule revamp in conformity with ICAO (International Civil Aviation Organization)

Technical Instructions and India's changing aviation requirements. But from a Law and Economics perspective, some provisions have the potential to end up defeating the very objectives they aim to foster—viz., safety, compliance, and market integrity. This policy paper identified five key gaps: unregulated emergency exemptions (Rule 3), lack of cost apportionment to mandatory training (Rule 15), standardized certification charges (Rule 18), open-ended suspension powers (Rule 20), and open-ended appellate timelines (Rule 21).

These mandates, while well-intentioned, create incentive distortions and regulatory inefficiencies. The objective standards and disclosure-free state of emergency exemption clause creates moral hazard—enabling operators to expect leniency and underinvest in long-term compliance. Indeterminate cost allocation in training requirements creates a public goods problem, resulting in free-riding and unequal compliance, especially for small operators. Fixed fee also overlooks operator capacity and contradicts marginal cost pricing principles, discouraging small entry, and distorting competition.

Procedural failures compound the issue. Rule 20 -permitting indefinite suspension of licence without regular review sows seeds of legal doubt and deters investment. Rule 21's exclusion of time limits for disposal of appeals reduces procedural effectiveness, keeping operators in regulatory uncertainty. These are the areas where these failures raise transaction costs, result in information asymmetry, and deter active compliance.

Effective regulation is about getting the balance right between enforcement and economic sense. It must

deter contravention and induce sustainable compliance by virtue of proportionality, predictability, and equity. The proposals of this paper try to rebalance the draft rules to align incentives more with public safety objectives—through clearer cost responsibilities, risk-adjusted charging, time-limited procedures, and discretions made transparent. By adopting these reforms, the Ministry of Civil Aviation could convert a technologically strong framework into a legally correct and economically efficient system of regulation. It would not only enhance aviation safety but also minimize systemic risk, decrease compliance costs, and establish a more competitive and dependable cargo transport system. In doing so, India would not only be at par with international standards but also a model of regulatory innovation built on institutional responsibility and economic design.

II. GENERAL COMMENTS

The **Aircraft (Carriage of Dangerous Goods) Rules, 2025**, issued under the **Bharatiya Vayuyan Adhiniyam, 2024**, seek to transform India's regulatory framework for air carriage of hazardous goods. The draft rules envision an end-to-end compliance regime from operator certification to packaging, marking, training, inspection, and penalties. Although the regime is in accordance with international best practices, several provisions raise legitimate design concerns of regulation. Five such areas are identified by this comment where the draft in our hands has the potential to vitiate its objectives through superfluous discretion, inefficiencies, and procedural lapses.

Arguably the most controversial part is **Rule 3(2)**, **third proviso**, which authorizes the Director General to provide blanket exemption from safety standards in a case of "extreme emergencies" on purely subjective satisfaction. Though regulatory flexibility is required in a crisis, this provision has no pre-defined standards, procedural protection, or disclosure norms. This creates a moral hazard: if operators anticipate regulatory accommodation during a crisis, they will spend less on routine compliance. Furthermore, the absence of disclosure standards increases information asymmetry between regulators and stakeholders, undermining trust, and accountability. Ideally, such exemptions should be tied to time pressures, clear eligibility criteria, and obligatory post-facto reporting to reconcile flexibility with institutional credibility.

Rule 15 is deficient, as it mandates continuous training and testing but fails to clearly designate who is responsible for the associated costs, which may lead to inefficiencies and a lack of proper investment in safety measures. This is a classic public goods problem: safety training is a public good enjoyed by the whole aviation community, but because there is no cost-bearer specified, there is no free-riding disincentive. This would translate into the second-best investment in compliance and training quality, particularly for small players. An easy solution would be to leave the financing in the hands of the operators, with subsidies or pooling arrangements for micro and small firms.

The flat fee system under **Rule 18(1)(A)(i)** generates further inefficiencies. It imposes a flat certification fee of ₹2,00,000 from every scheduled operator, regardless of size, scale of operations, or risk profile. A uniform tariff in such a structure contravenes the marginal cost principle of pricing and

disproportionately penalizes small operators. Large operators, who are usually more in need of regulation, are effectively undercharged. Entry is discouraged, the degree of legal compliance is truncated, and competition is distorted. A tiered fee system based on volume of cargo, nature of goods, or size of operator would be more representative of regulatory effort and conducive to allocative efficiency.

Rule 20 on suspension or revocation of licenses is not prescriptive of any maximum suspension period or review. This is a source of legal and commercial risk. Indefinite suspension operators cannot be certain of status, deterring investment and planning. Rule-of-law requires that measures of enforcement be proportionate, time-limited, and reviewable. The addition of an explicit maximum suspension period as well as review requirements at regular intervals would increase both justice and compliance incentives. Further, **Rule 21**, which is procedural in nature and regulates appeals, can render the process of appeal nugatory. It does not state any time limit within which the appellate officer must finally dispose of appeals. Without that, appeals may linger on, negating the purpose of the appeal as redress against arbitrary or wrong administrative action. This is most disadvantageous to small and medium operators, as their operations may be brought to a grinding halt by pending appeals. To ensure a structured and consistent process, it is advisable to introduce a statutory time limit for disposal, such as 30 or 60 days, to make the right to effective redress available. In all, while the draft rules represent a long-overdue regulation overhaul, they must be fine-tuned to embody economic rationality and administrative justice principles more accurately. Addressing the issues of untrammeled discretion, imprecise cost liability, flat rate distortion, indefinite suspension, and time-consuming appeals will make the structure not only more effective but also fairer and accountable.

III. SPECIFIC COMMENTS

SR. NO.	ISSUE	SUMMARY OF PROPOSAL	COMMENTS/ SUGGESTION	RATIONALE
1.	**DISCRETIONARY EXEMPTIONS** *(The Director General or any other officer authorized in this behalf by the Central Government may, by general or special order in writing, grant exemption from complying with these requirements provided that he is satisfied that every effort has been made to achieve an overall level of safety*)	The suggested Rule 3(2), Third Proviso, empowers the Director General or an officer to grant exemptions from compliance rules by written order, if they are satisfied that the issue of overall safety has been appropriately addressed. The provision is devoid of any precise criteria for evaluation, with broad discretion	Include compulsory criteria for exemption: (i) measurable harm from delay in compliance; (ii) definite timeline for exemption; (iii) ex post-facto public record of exemption orders.	The rule vesting discretion to grant exemption from statutory safety requirements serves as a valuable tool to preserve administrative flexibility and specially so in the aviation industry where practical and operational considerations can sometimes render complete and instantaneous compliance impossible in genuinely exceptional cases. The provision may unintentionally encourage regulated entities to delay or under-invest in

		without procedural safeguards or mandatory transparency.		compliance. This is due to the establishment of minimum eligibility criteria and transparency protections, which could lead to future exemptions, thereby creating a moral hazard. Operators may delay safety upgrades or further procedural spending. Also, since the operators will typically be a great deal more knowledgeable about their operating limits than the regulator is, this is an information asymmetry. The regulator will therefore need to spend a lot of money and time verifying the need and appropriateness of waiver requests. There is also an increased risk of regulatory capture because of broad,

				uncontrolled discretion. There will be a huge possibility of eroding the uniform enforcement of safety regulations that protect the public and passengers because of unclear exemptions standards since private interests may exercise excessive influence to gain leniency. These problems are met head-on by imposing overt and unbiased standards on exemptions. Responsibility is raised by making operators demonstrate quantifiable and unavoidable injury due to compliance within the period in question, limiting any exemption to a specific timeframe, and making all orders of exemptions written with complete reasons and posted. By making

				exclusions genuinely exceptional and not an informal substitute for timely compliance, it aligns private incentives with the public interest of safety. Mandatory disclosure facilitates closer monitoring by the public and stakeholders and fills information gaps. Discretionary powers are more likely to be exercised in good faith and for the right reasons in such a case. The rules notified relating to the carriage of dangerous goods, under the Bharatiya Vayuyan Adhiniyam, 2024, preserves the sanctity of statutory imposition of a uniformly high standard of aviation safety for everyone by striking an appropriate balance between

				flexibility and procedural protection.
2.	**Training Without Cost Clarity** *(No person shall engage himself in any manner in the transport of dangerous goods unless he has undergone proper training and assessment commensurate with his responsibilities. (Rule 15(1)))*	Rule 15(1) requires that all persons dealing with hazardous goods are adequately trained and tested. The rule does not specify who is to cover training costs, though, leaving cost liability uncertain and the potential for operators, especially small ones, to underinvest.	Modify the rules or supporting regulations to directly impose the training expense on employers/operators or permit DGCA-certified pooled subsidies for training on small shippers.	The regulatory requirement generates positive externalities. Trained staff improves overall aviation safety, lowering the likelihood of accidents and reputational loss for all the stakeholders—passengers, cargo handlers, airlines, and regulators. However, since the benefits are non-excludable and non-rivalrous, single firms have low incentive levels to internalize the expense. The outcome is a systemic market failure, whereby some of the participants—particularly smaller or newer ones—free ride off the safety investments of others. This training sub investment is supported by the public good nature of safety. Since no one can

				capture the whole return on investment, everyone has a rational stake in minimizing expenditure and waiting for someone else to act. The current rule therefore inadvertently encourages free riding by frugal operators, distorting competition and inducing unevenly distributed levels of compliance in the industry. In addition, a lack of cost clarity can cause regulatory arbitrage, in which companies take advantage of unclear details to sidestep compliance or replace it with ad hoc, ineffective solutions. Not only does this destroy the objective of having consistent safety standards, but it also degrades confidence in enforcement. To counter such incentive distortions, the regulation

				needs to clearly apportion the cost burden. Employers or operators—who have direct benefits from decreased liability and reputation risk—need to incur training costs. At the same time, DGCA-approved pooled training schemes can be introduced for small participants, funded through a training levy on big operators or through cross-subsidization models. Providing regulatory incentives (e.g., fee waiver, quicker clearances) to companies that invest in over-training would also align private incentives with public safety objectives. Thus, While Rule 15(1) rightly mandates training, its failure to address cost allocation creates a structural flaw that encourages free-riding and non-compliance. An effective reform, founded

				in Law & Economics, needs to internalize positive externalities and correct market failures through overt cost allocation and institutional support—rendering safety not just a regulatory requirement, but an economically efficient outcome.
3.	**Flat Certification Fees –** *(——(i) For Scheduled Operator: Rupees two Lakh for certification and rupees one lakh for renewal of certification (Rule 18(1)(A)(i)))*	Rule 18(1)(A)(i) prescribes a flat fee of ₹2 lakh for scheduled operators and ₹1 lakh for renewal, independent of operator size or cargo volume. The flat-fee structure does not consider size of operations and may therefore be levying excessive compliance charges on smaller operators.	Implement a tiered fee structure based on operator's annual volume of hazardous goods or aggregate air cargo tonnage (e.g., ₹50K–₹5L), as per audited reports.	There should be a tiered pricing structure, based on the capacity of the operator. This will ensure that the marginal benefit that accrues to the operator exceeds the cost of the fee that is paid by the operator. **Using marginal cost and efficiency:** For small operators, the cost of the certification fee, when it is fixed regardless of the capacity or size, will be greater than the marginal cost. Thus, some efficient transactions are deterred.

				Small operators who would profitably serve niche markets at competitive prices may exit or never enter, reducing total economic welfare. Such a standard fee creates a problem wherein small operators cannot get certified, leading to a reduction in market size. This is because the larger operators enjoy economies of scale, which the smaller operators might not, thereby creating a barrier to entry, because the small operators incur higher costs, which may not accrue in terms of the marginal benefits that they get from being certified. The larger operator would also have a higher capacity, making it difficult for the small operator to equalize the cost with the benefit.

				This also increases the dead weight loss, resulting in static inefficiency. *When the market is dominated by large number of players:* Furthermore, since the market then becomes dominated by certain large players, this means that the small players who decide to pay the high fees (if disproportionate), to further reduce their cost further, might scrape on safety and legal compliance. Despite such a situation, there will be no choice but to go with these operators, thereby making it inefficient and costly. In the long run, if it is made aware that the operators are scraping corners on safety, the government availing the services will internalize the cost of the same, by

				taking more precautions. Such a situation would mean that it would be more efficient to take precautions rather than relying on the operator. This would result in a reduction of the safety standard, thereby bringing in more scope for regulation, which would prove to be disadvantageous to the operators and the same might disincentivize them as well. When there is a tiered structure, it means that the operator will be able to achieve efficiency, because it avoids creating an artificial market barrier for the small operators, while ensuring that the small operators who choose to get certified, can recover the costs over time. Proportionate pricing will ensure that the marginal cost equals marginal benefit, thereby

				creating efficiency. The tiered pricing structure would serve as an incentive for small operators to enter the market, thereby providing competition for the dominant players as well as maintaining a market structure.
4.	**No Suspension Limit –** **(He may, for reasons to be recorded in writing, impose any restriction or suspend or cancel any licence, certificate or approval issued under these rules or under the Aircraft Rules, 1937." (Rule 20)**	Rule 20 authorizes the Director General to suspend, restrict, or cancel any licence, certificate, or approval by entering reasons in writing. It does not specify any maximum period of suspension or review procedure, and therefore there can be indefinite and perhaps arbitrary regulatory intervention without procedure safeguards.	Make provision for maximum suspension period (e.g., 6 months) and require periodic review of suspension orders with reasons for extension or cancellation	Guided by the principles of administrative law, and above all those enunciated in *Maneka Gandhi v. Union of India* **1978 SCR (2) 621,** any limitation of an inherent or statutory right like the right to conduct a business under licence must meet the tests of procedural fairness, non-arbitrariness, and reasonable restriction. Suspension without investigation is untrammeled and therefore fails to meet the requirements. Inability to impose a time limit provides fertile

				ground for subjective discretion, which is scarcely likely to survive judicial scrutiny under Article 14 or Article 19(1)(g) of the Constitution. **Uncertainty in Regulation and Best Global Practices:** The lack of a regime of temporary suspension under Rule 20 creates regulatory uncertainty and discourages compliance with legal requirements. In such industries as aviation where operators are undertaking long-gestation, high-capital investment possessing the capacity to measure and control regulatory risk becomes a necessity. When enforcement agencies like suspension are non-reviewable and indefinite, it results in: o Chilling effects on operations, where

				companies avoid investment or growth in anticipation of unfettered regulatory activity. o Skewed compliance behavior since regulated parties are unaware of the consequences, how long, or the remedies. o Inefficiencies in the market, wherein disproportionate penalties disrupt supply chains, crew certificates, cargo transportation, and stakeholders' trust. **Comparative Jurisdictional Support** Foreign and international civil aviation regulators also recognize the need for reviewable, time-limited enforcement: United States – FAA Regulation (14 CFR § 13.19)[1]: The rule is that any suspension of a certificate: o Be in writing.

[1] https://www.law.cornell.edu/cfr/text/14/13.19

				o State the precise time, and o Appealable to the National Transportation Safety Board (NTSB). This offers transparency, proportionality, and the possibility of legal remedies, all of which are important economic interests to air operators. ICAO Guidelines – Document 9859, Section 10.6: ICAO Safety Management Manual strongly holds that enforcement actions must be: o Proportionate with the risk of safety, o Bought in good time, and o Predictable in application. This global standard is a consensus among aviation regulators that regulation

				enforcement not only be effective, but also economically justified and circumscribed by procedures delegated. In comparison, Rule 20 has no such prohibitions, nor any procedural mandate, and the result is discretionary enforcement that underestimates long-term business planning. Deviation from global standards to which India, as a contracting state of ICAO, is bound, brings unmeasurable risks in operating decisions. **Recommendation:** Institute Time Limits and Review Procedure o Maximum length of suspension (i.e., 90 or 180 days); o A required review process prior to any extension; o A choice for the aggrieved party to seek

				interim relief or revision before an appellate forum.
5.	**Unbounded Appeals** *((4) The appellate officer may, after giving an opportunity of being heard to the appellant, pass a speaking order, as he thinks fit (Rule 21(4)))*	Rule 21(4) allows the appellate officer to pass a speaking order after hearing the appellant but prescribes no statutory deadline for filing or disposal of appeals. Absence of clearly established deadlines leaves room for indefinite adjournments, rendering timely disposal irrelevant and compromising procedural efficiency in regulatory adjudication.	Provide a statutory time limit (e.g. 60 or 90 days) for disposal of appeals by the appellate officer for enabling timely disposal.	Rule 21 of the draft Civil Aviation (Carriage of Dangerous Goods) Rules, 2025 allows appeals under Section 33 of the Bharatiya Vayuyan Adhiniyam, 2024, but prescribes no time limit for filing or disposal of such appeals. As it stands now, the Rule permits a party aggrieved to make an application to the Appellate Officer under Section 33 of the Bharatiya Vayuyan Adhiniyam, 2024, but does not prescribe any time limit for doing so. This is not a technical oversight—it permits possible unlimited delay, judicial indeterminacy, and danger of regulatory gridlock in important cases, and particularly those relating to aviation safety.

				In order to correct this lack, a formal amendment is suggested. 1. Firstly, Rule 21 should have a formal provision requiring filing of appeals within 30 days from the date of receipt of the appealed order. 2. Secondly, grace for a duration of a maximum of 15 days can be granted on providing adequate reason, grounds for which can be recorded in writing. 3. Thirdly, Form A has to be amended to incorporate these timelines, i.e., Point 10, with a note of explanation to the effect that such appeals received after 45 days would not be entertained as a matter of course where there are no exceptional statutory grounds. 4. Finally, Rule 21 should make provision for disposal of appeal by way

				of speaking order within 60 to 90 days, extendable on reasonable grounds alone. Of similar importance is the suggested revision of Form A—the mandatory appeal form—to incorporate the new deadlines. Point 10 of the form will have to be reworded to mirror the exact words of the legislative amendment, and an explanatory note would be used to point out that appeals made after 45 days would not be heard, with the exception of exceptional statutory grounds. This is clarity at the procedural point of entry that will curb accidental mistakes, ease compliance, and provide a benchmark of scrutiny for late submissions. The introduction of the sub-rule that appeals must be filed within thirty days

				of receipt of the challenged order is timely and suitable. It reintroduces certainty in the appeal process and brings the Rules into sync with established administrative practice. At the same time, while acknowledging that procedural inflexibility cannot be allowed to override fairness, the draft sensibly makes provision for extension, up to fifteen days on a demonstration of good cause. This protection is in sync with established legal principles, as in corresponding schemes under the Environment (Protection) Act, 1986 and the Electricity Act, 2003, both of which provide for speedy and final removal of regulatory grievances. The amendment also plays a more particular regulatory function. The majority of the orders that

				are appealable pursuant to Rule 21 concern the removal of physical barriers, hazardous structures, or encroachment near aerodromes. Their delayed implementation, brought about by open-ended appeals, thus threatens operational safety and endangers lives. The establishment of a tangible appellate window avoids the creation of a situation where the rule of law becomes an instrument of stultification. Institutionally, the reform increases adjudicatory efficiency and protects the regulator from being unduly weighed down by stale or strategic appeals. It makes the appellate remedy more effective, discourages speculative litigation, and anchors the finality of orders subject

				only to appeal within a specified legal timeframe. Briefly, this amendment is not a procedural change—it is a structural change that harmonizes decisiveness and fairness, public interest and individual rights, and enforceability and clarity.