

Will aviation disputes be easier to resolve? | Explained

What does the Protection of Interests in Aircraft Objects Bill, 2025 entail? What is the Cape Town Convention and Protocol? Will the Bill make it easier for lessors to repossess aircraft? What has been the response from the leasing industry?

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An abandoned Kingfisher Airlines ATR-72 aircraft rests in the heart of Hyderabad's IT hub near Knowledge City, Serilingampally on February 24. | Photo Credit: SIDDHANT THAKUR

The story so far:

Parliament last week passed the Protection of Interests in Aircraft Objects Bill, 2025. The proposed legislation establishes a legal framework to resolve disputes between airlines and lessors over high-value aviation assets, such as

aircraft, helicopters, and engines. The legislation aims to align India's aviation laws with international standards, in order to boost investor confidence amid rapid fleet expansion by IndiGo and Air India. Once enacted, the law will streamline processes, allowing lessors to repossess aircraft for unpaid dues, avoiding lengthy court proceedings like those seen with GoFirst's 2023 shutdown. However, the industry remains worried over the lack of ease of doing business as well as complicated tax laws in the country.

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What is the Bill and what are its provisions?

The Bill implements the Cape Town Convention and Protocol, which is an international treaty adopted by the United Nations aviation watchdog, the International Civil Aviation Organization (ICAO), in 2001 and signed by India in 2008 following a Cabinet approval. The Cape Town Convention and Protocol standardises transactions involving aviation assets such as aircraft and engines, and provides remedies for creditors in cases of financial default by airlines towards the lessors they rent aircraft from.

Speaking in the Rajya Sabha, the Minister for Civil Aviation Ram Mohan Naidu said that the Bill will "provide a significant boost to the leasing industry, which is the need of the hour." This he said would be made possible by providing much needed legal clarity, while referring to past disputes such as those involving SpiceJet and the now defunct GoFirst, where the absence of a uniform legislation often led to challenges in interpreting the Cape Town Convention and Protocol by courts. It also led to difficulties for lessors in repossessing their assets rented to airlines. The Minister also said that airlines have informed him that such a legislation could bring down leasing costs by 8-10%, which he claimed would offer a trickle-down advantage for passengers through lower airfares. The Minister said that the Bill has the potential to promote domestic leasing in the Gujarat International Finance Tec-City (GIFT) City in Ahmedabad.

The Bill designates the Directorate General of Civil Aviation (DGCA) as the Registry Authority for the purposes of the Convention. Such an authority is responsible for the registration and de-registration of aircraft. The Bill also empowers the DGCA to issue directions to implement the Convention. It lays down the obligations of debtors, such as airlines, which include submitting a record of dues to the DGCA. It also defines remedies available in case of a default in payment that includes the right to take back possession of the asset within a period of two calendar months or a mutually agreed upon period, whichever is earlier. The Bill will also have an overriding effect, which means that if there

is any inconsistency between the Bill and any other law, the provisions of the Bill will prevail.

Why has the Bill been introduced?

The Bill was introduced to address long-standing challenges in India's aviation sector, particularly the legal uncertainties faced by international lessors and creditors.

The necessity of such a law was witnessed at the time of the closure of Kingfisher Airlines and GoFirst as well as in disputes involving SpiceJet. Despite India's accession to the Cape Town Convention in 2008, the lack of implementing legislation meant that domestic laws, such as the Insolvency and Bankruptcy Code (IBC), often conflicted with international standards. This led to difficulties in repossessing aircraft during airline insolvencies, as seen in the case of GoFirst (2023). These inconsistencies increased risks for lessors and lowered India's compliance score on the Aviation Working Group's (AWG) Cape Town Convention Index (previously at 50, now improved to 62, with a target of 90).

The Bill aims to resolve these issues by providing legal clarity, aligning India with global norms, and reducing the financial burden on airlines.

For instance, during the shutdown of GoFirst, which sought voluntary insolvency before the National Company Law Tribunal (NCLT) in May 2023, the court granted the airline protection under moratorium from adverse actions by lessors, lenders, airports and oil companies. This prevented the lessors from de-registering their aircraft and removing the planes from India within the permissible five-day period.

Later, they also faced challenges with respect to accessing aircraft for carrying out maintenance to ensure airworthiness, and also found themselves repaying exorbitant dues owed by the airline to airport operators for expenses incurred on counter and office space, ground and cargo handling apart from aircraft parking costs.

How has the decision been received by the leasing industry?

The Bill has been broadly welcomed by the industry as far as disputes and concerns over ability to repossess aircraft go, though some say it is like "closing the stable door after the horse has bolted," referring to the challenges posed by GoFirst, SpiceJet and Kingfisher Airways.

Executives in the international leasing industry explain that the claims promoted of reduced leasing costs as a result of the proposed law are not entirely true as the

creditworthiness of an airline, its financials and volume of orders are the real driving factors, especially for airlines like Air India and IndiGo, as the industry is bullish about their growth prospects. However, smaller airlines and start-ups may benefit through a 10% rebate in interest rates offered by the EXIM bank for financing of aircraft leasing.

Similarly, airline executives state that claims of a likely respite in airfares are exaggerated as ticket prices are driven by market forces of demand and supply for air travel, and that costs incurred by airlines don't drive the fares.

However, the **Bill will lower the risk of doing future business in India, which will impact an airline's net income.**

But the industry is worried about India's complicated taxation regime. Many lessors of a large airline have been speaking in hushed tones about IT notices being slapped on them for operating through **Special Purpose Vehicles (SPVs) to lease airplanes** as they are not allowed to have a permanent establishment in India.

The industry feels the government is arm-twisting international lessors to set up a local arm at GIFT City, Gandhinagar, where the government aims to create its own ecosystem for domestic leasing.

An executive from a major leasing company, speaking anonymously, described the Indian taxation regime as "whimsical, suspicious, and inconsistent," citing these issues as key reasons for the lukewarm response from the leasing industry to GIFT City.

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