

Domestic Air Services (Liability and Insurance) Regulation Bill 2082 (2025 A.D.)

Introduction

On July 4, 2025, the Ministry of Culture, Tourism, and Civil Aviation (“MCTCA”) released a draft of the Domestic Air Services (Liability and Insurance) Regulation Bill 2082 (2025 A.D.) (“Draft Bill”) for public comments. Once finalized by MCTCA, the Draft Bill is expected to be presented to the Cabinet for approval before being tabled in the Parliament.

The Draft Bill marks a significant step in regulatory reform in Nepal's aviation sector following the country's ratification of the Convention for the Unification of Certain Rules for International Carriage by Air (“Montreal Convention”) in 2018.

The proposed Draft Bill introduces a comprehensive regime governing passenger rights and airline's liability in cases of accidents, cancellations, injuries, disabilities, deaths, delays, and disruptions in service.

This Briefing aims to highlight the key provisions introduced in the Draft Bill. The Nepali version of the Draft Bill can be accessed [here](#).

Ticket as Contract of Carriage

Tickets, baggage tags, and cargo receipts constitute prima facie evidence of the contracts between passengers or cargo owners and the airline. A ticket serves as proof of the contract of carriage, the baggage tag evidences the agreement for baggage transport, and the cargo receipt confirms airline's acceptance of the cargo. Minor errors, loss, or damage to these documents shall not invalidate the underlying contract of carriage.

A ticket must include details such as the place and date of issuance, the passenger's name and address, along with the travel date, time, and flight number. It should also state the departure point, final destination, any stopovers, fare details (including

whether paid or free), relevant liability provisions under the applicable legislation, and any additional terms mutually agreed upon between the passenger and the airline, along with the airfare charged, airport service charges, and any other amounts payable to government authorities.

Claim for Delay

In case an airline fails to operate a flight for a ticketed passenger due to overbooking or other reasons, it must offer the passenger one of the following options, as per the passenger's choice:

- Arrange travel on another airline flying the same route if available.
- Provide alternative travel to the final destination as soon as possible at no extra cost.
- Refund the full fare and cancel the ticket.

Claim for Damage to Baggage

Passengers must submit baggage damage claims within 30 days of receiving the baggage. In the event of a passenger's death, claims must be filed within 60 days. For all other situations in which compensation is sought, claims must be submitted within 7 days, and within 35 days of receiving notice in special circumstances. All claims must be accompanied by relevant evidence or supporting documentation and submitted to the airline.

Additionally, the airline is liable for direct damages to passengers or their baggage caused by airline's negligence during boarding, disembarkation, or baggage transfer. It must compensate for lost, damaged, or destroyed checked baggage, except when damage results from the passenger's actions. Compensation for checked baggage is limited to USD 20 per kilogram, up to USD 5,000, while for carry-on/unchecked baggage, the liability is capped

at USD 400 (both amounts converted to Nepali Rupees).

Claim for Baggage Delay

If checked baggage is not delivered at the designated time and location, the passenger must promptly submit a claim to the airline. However, the Draft Bill fails to include a provision for compensation for a claim for delayed baggage.

Injury and Death

In the event a passenger is injured, disabled, or dies due to an accident while boarding, onboard the aircraft, or during disembarkation, the airline is liable to provide compensation of up to USD 100,000 for injury or disability, and passenger's death.

An airline is also obligated to arrange necessary medical treatment, repatriate the deceased's body, and make an advance payment to the family to cover funeral expenses. Any additional liability shall be determined in accordance with the terms agreed between the passenger and the airline.

Currently, the compensation for the death of a passenger in a domestic air accident is set at USD 20,000. Under the proposed legislation, this amount will increase fivefold, entitling the passenger's legal heir to USD 100,000.

Exemption from Liability

An airline shall be exempt from liability in cases of flight delays, cancellations, or disruptions resulting from:

- adverse weather conditions
- natural disasters
- operational constraints
- security restrictions

Furthermore, an airline is not liable where a passenger's injury, disability, or loss is directly caused by the passenger's gross recklessness or where such harm results from a pre-existing serious medical condition.

Proof of Insurance

Airlines are required to maintain comprehensive insurance coverage for all aircraft used in passenger and cargo transport. This insurance must cover liabilities arising from passenger injury, disability,

or death due to accidents; loss or damage to baggage and cargo; and harm caused to third parties.

In addition, the policy must extend to cover risks associated with war, terrorism, hijacking, non-accidental aircraft loss or damage, and expenses related to search and rescue operations, aircraft recovery, and environmental remediation following an incident.

Airlines are required to submit proof of insurance covering passengers, cargo, and third-party liabilities for all their aircraft to the Government of Nepal ("GON"), the Civil Aviation Authority of Nepal ("CAAN").

Compensation to Third Parties

Airlines are liable to compensate third parties for any loss or damage arising from aircraft accidents or other airline-related operations. To ensure such liability is covered, airlines are required to maintain mandatory minimum third-party liability insurance based on the aircraft's weight:

- USD 25 million for aircraft up to 10,000 kg
- USD 35 million for aircraft between 10,001 kg and 35,000 kg
- USD 60 million for aircraft exceeding 35,000 kg

Cargo Claim

If cargo is damaged or lost during air transport, the owner or authorized recipient must promptly file a detailed claim with the airline or its authorized agent, specifying the nature and extent of the damage or loss. For lost or destroyed cargo, the claim must be accompanied by proof of handover to the airline. Upon receipt of the corresponding insurance payment, the airline is required to compensate the claimant within 15 days.

Complaint to the Director General

In cases of flight delays, cancellations, or where an airline fails to provide the required services or compensation, the passenger may file a complaint with the Director General of CAAN within three days.

Upon receiving a complaint, the Director General shall initiate an investigation, provide an opportunity to both parties to be heard, and, if the airline is found to be at fault, may order

appropriate compensation and issue an order to prevent recurrence. Non-compliance with such order may result in the suspension of the airline's flight operations.

Limitations and Jurisdiction

If an airline fails to fulfill its obligations under this legislation, the aggrieved party may initiate legal proceedings within six months by filing a lawsuit in the District Court located in any of the following places:

- the plaintiff's place of residence
- the place of occurrence of the accident
- the place of registration of the aircraft
- the place where the ticket was issued or payment was made

Appeal

A party who is not satisfied with the decision of the District Court, may file an appeal with the relevant High Court.

Non-Commercial Flight Operations

Entities engaged in entertainment-related aviation activities, flight training, rescue and relief operations, and private aviation services shall be subject to liability standards as determined and published by the MCTCA in the Nepal Gazette.

Claims and Limitations

Claims or legal proceedings must generally be initiated within 30 days from key dates, such as the date of the compensation decision, the date baggage was received or handed over, the date of cargo delivery, or the date the baggage or cargo was lost.

However, in cases where compensation is not provided due to circumstances falling under exemptions applicable to the air carrier, a party may file a lawsuit within two years from the date of the incident. Such legal action must be brought before the appropriate District Court having jurisdiction over the matter.

Non- Applicability

The Draft Bill shall not apply to:

- aircraft operated by the GON
- Nepalese Armed Forces

- sample aircraft used exclusively for purposes of study, research, or testing

Review of Compensation Amount

The GON shall, in every ten years from the date the Draft Bill is enacted into a legislation, review the prescribed compensation limits based on the average national inflation rate and publish a corresponding notice in the Nepal Gazette.

Comments and Conclusion

The Draft Bill represents a positive step forward, offering greater legal clarity, ensuring regulatory consistency, and promoting increased accountability within Nepal's domestic aviation sector. Following Nepal's ratification of the Montreal Convention, which adopts a higher liability threshold for international carriage of passengers, baggage, and cargo by air, there has been sustained advocacy for revising the liability regime governing domestic air transport.

Nonetheless, in revising the domestic liability framework, it is important to consider the liability standards adopted by neighboring countries with similar economic and social contexts. Liability limits should reflect the local economic realities, including average income levels, cost of living, and broader legal and economic conditions.

It is also relevant to compare these proposed liability limits with those currently applicable to other types of accidents in Nepal. For example, compensation for road traffic accident victims is capped at NPR 500,000 under the Vehicle and Transportation Management Rules, 2054 (1997 A.D.), and at NPR 700,000 under the Labor Act, 2074 (2017 A.D.) for workplace-related injuries. As the Draft Bill proposes significantly higher compensation for domestic air accidents, a broader review of liability caps for other sectors is also necessary to ensure consistency, fairness, and equity for all citizens.

While the Montreal Convention governs international air carriage, it does not extend to domestic air transport. Therefore, the Draft Bill is not being introduced as a treaty obligation. In this context, the inclusion of separate provisions on jurisdiction and liability based on U.S. dollars appears questionable. Compensation under domestic law is typically expressed in local

currency. The use of foreign currency for compensation in domestic air transport, setting liability in US Dollars do not seem to be appropriate and misaligned with national legislative standards and economic practice.

Under Nepalese law, jurisdiction is generally governed by the Civil Procedure Code 2074 (2017 A.D.), rather than by individual statutes. Further, the place of accident bears no significance in aviation accident cases. Nonetheless, the Draft Bill provides the place of accident as one of the forums where a plaintiff may during an action.

The Draft Bill also fails to include a provision for compensation for a claim for delayed baggage.

Moreover, the Draft Bill prescribes the maximum cap of liability for compensation. In reality a separate legislation needs to be enacted to determine the exact amount of the liability for each event. In the absence of such legislation, the liability prescribed by the Draft Bill would be incomplete.

In light of these considerations, it appears that while the Draft Bill is motivated with good intentions, it lacks the careful legal, economic, and policy analysis necessary to ensure its coherence and suitability within Nepal's broader legal framework.

This Briefing is authored by:



Aaditty J. Kansakar
Associate Partner



Mamata Thapa
Trainee Associate

For further information about the subjects covered in this Briefing, please contact:

Aaditty J. Kansakar
Associate Partner
Tel: +977 1 545 5606 (Ext. 104)

DISCLAIMER: INFORMATION CONTAINED IN THIS DOCUMENT IS ONLY FOR GENERAL INFORMATION PURPOSE AND SHALL NOT BE CONSIDERED TO BE LEGAL OPINION.

For further information about the subjects covered in this Briefing, please contact:



Pradhan & Associates Pvt. Ltd.
559 Bakhundole Marg (Maitri Marg), Bakhundole – 3
Lalitpur 44770, Nepal
Tel: +977 1 545 1900 | Fax: +977 1 543 3344
Email: info@pradhanlaw.com
Web: www.pradhanlaw.com