

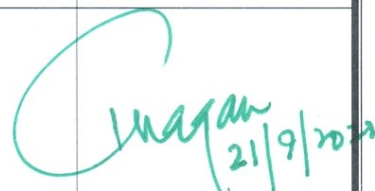




ENFORCEMENT POLICY AND PROCEDURE MANUAL

VERSION : 3.0
DATE OF IMPLEMENTATION : 23-09-2022
OFFICE OF PRIME INTEREST : Deputy Director General (Regulatory) Office

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TYPE OF DOCUMENT	MANUAL (MNL)		
STATUS OF DOCUMENT	CONTROLLED		

PREFACE

An attempt has been made to make a comprehensive **Enforcement Policy and Procedure Manual** (hereinafter called Enforcement Manual) in coordination and cooperation with all relevant CAA functions, consistent with the primary and secondary aviation legislation, for guidance of those directly or indirectly associated with enforcement obligations. This Manual provides enforcement measures with a wide range of procedures to match the regulatory action to the seriousness of a breach. The Manual will help ensure that justice is not only done but also seem to be done, through the application of consistent, transparent and systematic procedures.

It is believed that the vast majority of the industry is committed to working within the aviation safety and security rules, regulations and established procedures. CAA needs to have the capacity to vigorously pursue those who choose to operate outside the rules, regulations and established procedures and thereby jeopardize both the lives of people and property. It is important that CAA is backed by adequate force in law and have sufficient authority to act quickly when there is a serious and imminent risk that could jeopardize safety and security. In such cases the community would expect nothing less but direct intervention by the law enforcement authority which in the case of aviation is the CAA. These enforcement measures will certainly strike the appropriate balance between enhancing natural justice and supporting the CAA's powers to take action on willful safety and security breaches. It is imperative that industry and CAA work together in a spirit of mutual understanding and close cooperation and of realism to maintain high standard of aviation safety and security to benefit all.

CAA is committed to ensuring that it uses its enforcement tools in an open, consistent and transparent manner so that the force of legal authority would be applied in a justifiable manner against errant persons or organizations. The enforcement policy determines the way that the CAA uses its powers to regulate industry. With limited resources, CAA must ensure that it gives proper focus to the exercise of its powers in order to discharge the trust given to it by law. It must ensure that it uses its powers in a way that inspires the confidence of the travelling public and third party. It must also use its powers in a way that is, and is seem to be fair, firm and consistent.

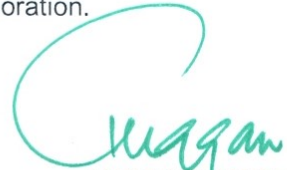
The Enforcement Manual introduces the CAA's philosophical approach to enforcement. That approach is, in essence:

- A person who reports making an honest mistake generally should not be prosecuted or fined, nor should they have their licence, certificate or authority suspended or cancelled for reasons of punishment.
- There should be a measured response to less serious contraventions of the safety and security rules, regulations and established procedures which should involve counseling, training or infringement notices rather than either criminal prosecution or the suspension or cancellation of licences, certificates or authorities or imposition of any monetary penalties.
- People who consciously choose to operate outside the rules, regulations or established procedures and thereby put the lives of members of the public including the fare-paying

passengers or property at risk should be prosecuted and removed from the industry, no matter how powerful they are, or are seem to be.

For an effective implementation and adherence of rules, regulations and prescribed procedures, a graduated scheme of financial & administrative penalties and continued surveillance has been introduced in this Manual consistent with the primary and secondary aviation legislation. It has been endeavored that every relevant topic / subject is contained in this Manual with necessary details and reference of applicable provisions of the Ordinance and the CARs-1994. The officers of Legal (Reg.) Branch assigned to the task of finalizing this Manual have indeed worked with devotion and commitment to ensure that all essential details are covered herein. Any amendment in this manual to make it updated, relevant and consistent will be processed through Legal (Reg.) Branch for incorporation.

Dated: 21st September, 2022



KHAQAN MURTAZA,
Director General,
Pakistan Civil Aviation Authority

ENFORCEMENT POLICY AND PROCEDURE MANUAL

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FOREWORD

This Enforcement Manual is a comprehensive reference document providing detailed guidance to CAA regulatory inspectors directly or indirectly associated with compliance or enforcement actions. The Enforcement Manual provides policy, processes and procedures for undertaking an appropriate compliance or enforcement actions to ensure uniformity, transparency and consistency to a possible extent under similar circumstances. It provides details about each of the existing enforcement tools available to CAA inspectors and the circumstance under which these tools should be used. The document reproduces relevant enforcement provisions, where required, from primary and secondary civil aviation legislation for ease of reference which may not be misunderstood as a new set of laws / rules.

The Manual outlines duties and responsibilities of relevant offices and their associated inspectors with regard to compliance or enforcement actions. Many factors must be considered in choosing an appropriate course of action to ensure compliance and provide deterrence to breaches of statutory or regulatory requirements or procedures. The weight-age given to the various factors must often be left to the discretion of the individual inspector. The material in this Manual will provide them with guidance in the proper exercise of that discretion.

The Manual provides for examination of aviation personnel and inspection of aviation documents, aeronautical products and facilities to determine whether compliance with applicable provisions of the Ordinance(s) or as may be prescribed thereunder, published requirements or approved procedures is being maintained. It also entails continuing surveillance to provide a regulatory presence to promote compliance and reveal contraventions of aviation statutory or regulatory requirements.

This manual will be amended as and when situations arise. Any suggestion regarding the improvement of this manual is welcomed and such suggestions may be forwarded to Legal (Reg.) Branch for incorporation.

This manual comes into effect with immediate effect.

GLOSSARY OF TERMS

- a) “**Administrative Action**” - Deterrent / corrective (including punitive) action taken by or on behalf of the Federal Government or the Authority or the DG CAA (with prior approval of the Federal Government or the Authority or the DG CAA, as the case may be, if so required under the civil aviation Ordinance or as may be prescribed thereunder) including oral counseling, warning notice, a letter of correction, imposition of operating restrictions and / or sanctions, suspension or cancellation of documents of entitlement / authorization and imposition of a financial penalty.
- b) “**ANO**” - Air Navigation Order issued by the Director General under Rule 4 (3) of the Civil Aviation Rules, 1994 for regulating civil aviation activities.
- c) “**Authority**” - Pakistan Civil Aviation Authority (CAA).
- d) “**Civil Aviation Document**” - Any license, rating, permit, accreditation, approval, validation, endorsement, certificate, authorization or other documents issued by the Federal Government or the Authority or the DG CAA, as the case may be, under the provisions of civil aviation Ordinance or as may be prescribed thereunder to or with respect to any person or organization or in respect of any aeronautical product, aerodrome, facility or service.
- e) “**Compliance**” - Abiding by the provisions of civil aviation Ordinance or as may be prescribed thereunder. Compliance and enforcement can be used interchangeably.
- f) “**Deterrent Action**” - Administrative or punitive measures or actions taken in relation to violation to ensure future compliance and to prevent further violation(s).
- g) “**Enforcement Action**” - The steps including deterrent action that is to be taken from the moment a possible violation of any provision of the Ordinance or as may be prescribed thereunder has been detected until the case is concluded.
- h) “**Initial Violation Process**” - The immediate actions taken on observing or being apprised of a violation. Information is gathered concerning the occurrence and, if an infraction has occurred, a decision is made to conclude the case with an Oral Counseling or to send the information to concerned office or inspector for further investigation.
- i) “**Inspector**” - Any CAA officer or any other person with appropriate authority under the Delegation of Authority document issued under the provisions of civil aviation Ordinance or as may be prescribed thereunder.
- j) “**Investigation**” - The follow-up to the initial violation process to obtain conclusive evidence as to whether or not a violation has occurred so that an appropriate administrative or punitive action can be taken.
- k) “**Investigator**” - A CAA authorized Investigator.
- Note:** Inspectors inspect and Investigators investigate.
- l) “**Negligence**” - Conduct falling below the required standard of attention, vigilance and care for the protection of person or property of others against unreasonable risk or harm.

- m) **“Offence”** - Any violation/contravention of provisions of civil aviation Ordinance or as may be prescribed thereunder or any CAA relevant document that may be proceeded against by administrative or judicial action including summary conviction procedure.
- n) **“Offence-Creating Provisions”** - Provisions of the civil aviation Ordinance or as may be prescribed thereunder that mandate a certain form of conduct or prohibit certain conduct and which, if contravened, can result in an administrative or legal action.
- o) **“Operator”** - A person, organization, or enterprise engaged in, or offering to engage in, an aircraft operation;
- p) **“Ordinance”** - Civil Aviation Ordinance, 1960 and Pakistan Civil Aviation Authority Ordinance 1982.
- q) **“Penalty”** - Financial penalty or any other penalty imposed under any provision of the civil aviation Ordinance or as may be prescribed thereunder for any offence / violation.
- r) **“Prescribed”** - As prescribed by rules or regulations made under the civil aviation Ordinances.
- s) **“Reasonable Grounds to Believe”** - The knowledge of facts that would lead a reasonable person of ordinary intelligence and prudence to believe.
- t) **“Recklessness”** - Conduct that shows deliberate disregard of, or indifference to, the consequences of one’s actions under circumstances involving risk of harm to life or property.
- u) **“Regulations”** - It include National Regulations, Operating Regulations, ANOs, CAAOs, Notices and Circulars made or issued under the civil aviation Ordinance or Rules made thereunder.
- v) **“Rules”** - Civil Aviation Rules, 1994 made under the Civil Aviation Ordinances.
- w) **“Violation”** - Contravention of or failure to comply with any provision of the civil aviation Ordinance or as may be prescribed thereunder, published requirements, approved procedures or any direction given under primary or secondary aviation legislation.

Note: The terms not defined here and used anywhere in this Manual shall have the same meaning as in the civil aviation Ordinance, rules or regulations.

Chapter 1

GENERAL

1.1 AUTHORITY

1.1.1 This Enforcement Manual has been issued by the DGCAA in pursuance of powers vested in him under Rule 4(3) of the Civil Aviation Rules, 1994.

1.2 OBJECTIVES OF THE MANUAL

1.2.1 The objectives of this manual are to provide:

- 1.2.1.1 An overview of CAA's enforcement policy and procedures;
- 1.2.1.2 A description of the roles and responsibilities of CAA inspectors and any other inspector with appropriate authority under the Delegation of Authority document;
- 1.2.1.3 A description of the enforcement tools available;
- 1.2.1.4 A description of the aids to enforcement;
- 1.2.1.5 Guidelines and procedures for:
 - 1.2.1.5.1 Appropriate use of enforcement tools
 - 1.2.1.5.2 Reporting enforcement
 - 1.2.1.5.3 Recording enforcement
 - 1.2.1.5.4 Collecting and handling evidence
 - 1.2.1.5.5 Investigations by inspectors
 - 1.2.1.5.6 Gaining access
 - 1.2.1.5.7 Note taking and interviewing
 - 1.2.1.5.8 Detaining aircraft
- 1.2.1.6 Precedent documents.

1.3 TARGET AUDIENCE

1.3.1 The target audience or beneficiary of this Enforcement Manual is CAA inspectors and all other CAA officers / officials who are directly or indirectly associated with the compliance and enforcement process. Any other person with appropriate authority under the Delegation of Authority document issued under the provisions of civil aviation Ordinance or as may be prescribed thereunder, is also the target audience or beneficiary of this Enforcement Manual, subject to the Delegation of Authority document.

1.4 MANUAL AMENDMENT PROCESS

1.4.1 **Office of Primary Interest:** Legal (Reg.) Branch will be the Office of Primary Interest (OPI) for this Manual. This document will be amended as required and all amendments to this Manual shall be processed through Amendment Request Form (**Appendix-A to this Chapter**) in accordance with procedure outlined in the CAAO-001-DDGR "Procedure for Development of Regulatory Framework". After getting approval from the DGCAA, Legal (Reg.) Branch will issue an appropriate amendment to this procedure as soon as practical which shall be incorporated in Record of Amendments hereinabove mentioned.

1.5 RESPONSIBILITIES FOR THIS MANUAL

DG CAA	<ul style="list-style-type: none"> Approval of this Manual or any amendment thereto as proposed and recommended. Administrative actions in accordance with this Manual.
Deputy DG	<ul style="list-style-type: none"> Review this Manual or any amendment thereto as proposed and recommended and process it for approval of DGCAA. Overall supervision of this Manual. Monitors compliance with procedures.
Respective Director(s) / Additional Director (s)	<ul style="list-style-type: none"> Propose amendments in this Manual pertaining to their areas of responsibilities and send them to Legal (Reg.) Branch for vetting / clearance and for their onwards submission to Dy. DG for review and DG CAA for approval, whereafter the amendments will be incorporated in the Manual and made effective. Implementation of the processes and procedures provided in this Manual.
Inspectors	<ul style="list-style-type: none"> Propose amendments that would improve the efficiency and effectiveness of procedures outlined in this Manual and process them through their respective Directorates / Branches / Supervisors for vetting of Legal (Reg.) Branch and for their onwards submission to Dy. DG for review and DG CAA for approval, whereafter the amendments will be incorporated in the Manual and made effective. Implementation of the processes and procedures provided in this Manual.
Additional Director Legal	<ul style="list-style-type: none"> Propose amendments in this Manual. Vet proposed amendments received from respective directors, additional directors and inspectors and either sends the proposed amendments to DGCAA through Dy. DG for approval with his recommendations or returns them to the concerned Directorate / Branch / Officer with comments. Implementation of the processes and procedures provided in this Manual.

APPENDIX-A

SAMPLE AMENDMENT REQUEST FORM

(To be filled in case amendment in this Manual is to be proposed)

To,

Addl. Director Legal
HQCAA, _____.

Sir,

The following amendment(s) / addition(s) / deletion(s) / correction(s) / suggestion(s) is proposed in the Enforcement Manual:

S. No.	Details of amendment(s) / addition(s) / deletion(s)/ correction(s) / suggestion(s)	Page of Manual

Date:

(Signature and Stamp)

Chapter 2

POLICY OVERVIEW

2.1 GENERAL

2.1.1 The aviation enforcement program plays a vital role in the discharge of CAA's responsibility for the conduct of safety and security oversight of the operators and service providers functioning under its jurisdiction and promotes the goal of improved aviation safety and security by encouraging voluntary compliance with and through the enforcement of primary and secondary aviation legislation, published requirements and approved procedures. When necessary, the CAA will initiate investigation of alleged violations of primary and secondary aviation legislation, published requirements or approved procedures and take necessary enforcement action to maintain aviation safety and security standards.

2.2 OUR OBLIGATIONS

2.2.1 Being a signatory to Convention on International Civil Aviation signed in Chicago on the seventh day of December, 1944 (hereinafter called "the Convention") and a contracting state of the International Civil Aviation Organization (ICAO), Pakistan has an obligation to oversee the safe, secure and efficient operation of aviation activity for which it is responsible. Further, as a signatory to the Convention, Pakistan has agreed to the application of Article 12 of the Convention, "Rules of the air," which states in part:

Each contracting State undertakes to adopt measures to ensure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. . . . Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable.

2.2.2 Enforcement and sanctioning powers, provided by the CAA's legal framework, are delegated to the DG CAA, depending on the nature and extent of such provisions in the legislation.

2.2.3 As a result of international obligation and domestic legislation, enforcement is not an option, it is both a legal and social obligation. Vigorous enforcement action will be taken with respect to all deliberate breaches of the aviation safety and security standards, published requirements or approved procedures.

2.3 PURPOSE

2.3.1 The enforcement policy of CAA is aimed at promoting compliance with aviation safety and security regulations and requirements through enforcement functions in a fair, impartial, consistent, transparent and equitable manner. The intent of enforcement policy is to promote a 'just culture' in the aviation industry, where people are encouraged for providing essential safety related information, and are clear about the line between acceptable and unacceptable behavior.

2.4 VOLUNTARY COMPLIANCE

2.4.1 CAA recognizes that voluntary compliance with provisions of the civil aviation Ordinance or as may be prescribed thereunder, published requirements or approved procedures is the most progressive and effective approach to aviation safety and security. Voluntary compliance is based on the idea that members of the aviation community have a shared interest, commitment, and responsibility to aviation safety and security, and that they will operate on the basis of common sense, personal responsibility, and respect for others.

2.5 ENFORCEMENT TOOLS

2.5.1 Breaches of provisions of the civil aviation Ordinance or as may be prescribed thereunder, published requirements and approved procedures may occur for many different reasons, from a genuine or innocent misunderstanding or misinterpretation of the Ordinance, rules, regulations, published requirement or approved procedures to a blatant disregard for aviation safety and security. CAA has a range of enforcement tools in order to effectively address its safety and security obligations in light of differing circumstances. These tools are:-

2.5.1.1 Counseling

2.5.1.2 Remedial training

2.5.1.3 Penalty including all possible deterrent actions

2.5.1.4 Variation, suspension and cancellation of authorizations

2.5.1.5 Recommending prosecution

2.5.2 These enforcement measures are explained and the procedures and responsibilities for using them are also set out in the succeeding chapters. The key focus of the CAA's enforcement will be to address safety and security by consistent and appropriate enforcement action.

2.5.3 It should also be noted that CAA may require the holder of a civil aviation authorization to undergo an examination to test his competence. It generally happens in relation to an examination to test competence that CAA discovers a deficiency which suggests that allowing the holder to continue to exercise the privileges of that authorization may constitute an unacceptable risk to flight safety or security because the holder may not have the knowledge or due competence to be able to exercise those privileges to the expected standards. An examination is called for in order to confirm or dispel that impression. This is arguably still a compliance matter rather than an enforcement tool.

2.6 ENFORCEMENT POLICY – HIGH LEVEL PRINCIPLES

2.6.1 The aim of CAA Enforcement Policy is to lead the aviation community in Pakistan by provisions of a world-class air safety and security environment, which has public trust and confidence. To achieve trust and confidence of the aviation industry and the members of the public including air commuters, CAA has to react promptly and appropriately to intentional breaches or neglect of provisions of the Ordinance or as may be prescribed thereunder, published requirements or approved procedures. These provide for:-

2.6.1.1 A range of enforcement tools to match the regulatory action to the seriousness of the breach.

2.6.1.2 Accountability by CAA for the making of its decisions.

2.6.1.3 Impartiality in decision making.

- 2.6.1.4 On one hand, facilitate the aviation industry in its objectives of safe, secure and efficient flight operations with growth, service to the community and so forth, whilst, on the other hand, provide CAA a balanced and very measured capacity to make tough decisions when they have to be made to enforce aviation safety and security.
- 2.6.2 These principles must be accompanied by explicit benchmarks and a capacity within CAA to demonstrate in a measurable and accountable way how they will be met. CAA's enforcement policy determines the way CAA uses its powers to regulate the aviation industry in the State. With limited resources CAA has to ensure that it gives proper focus to the exercise of these powers. A consistent and systematic enforcement process will enable the CAA to develop confidence level of the operators' and service provider's compliance with the governing rules, regulations, published requirements and approved procedures. CAA's enforcement policy determines a graduated escalation of enforcement. Enforcement Manual therefore describes the circumstances in which the enforcement can or must be made to deal with an identified breach of provisions of the Ordinance or as may be prescribed thereunder, published requirements and approved procedures. The subject specific sections of the Enforcement Manual and the Ordinance, Rules, Regulations, which govern the enforcement tools, are based on the following overarching principles:
- 2.6.2.1 **Natural Justice and Accountability:** Enforcement decisions must be:
- 2.6.2.1.1 Based on fair observance of due process
- 2.6.2.1.2 Transparent to those involved
- 2.6.2.1.3 Consistent in the like circumstances so as to be non-discriminatory
- 2.6.2.1.4 Subject to appropriate internal and external review
- 2.6.2.2 **Impartiality:** Enforcement decisions must not be influenced by:
- 2.6.2.2.1 Personal conflict or agendas
- 2.6.2.2.2 Extraneous considerations (such as gender, race, religion, political views or affiliation): or
- 2.6.2.2.3 The personal, political or financial power of those involved.
- 2.6.2.3 **Proportionality:** Enforcement decisions must be proportionate to the identified breaches and the safety and security risk they give rise to, in particular:
- 2.6.2.3.1 CAA's first priority is to protect the safety and security of the members of the public including fare-paying passengers:
- 2.6.2.3.2 CAA will take strong action against those who consistently and deliberately operate outside the civil aviation Ordinance, Rules, Regulations, published requirements and approved procedures:
- 2.6.2.3.3 CAA will seek to educate and promote training or supervision of those who are observed to be lacking proficiency but have willingness to comply with the civil aviation Ordinance, Rules, Regulations, published requirements and approved procedures:

- 2.6.2.3.4 Give due and equitable consideration to distinguish premeditated violations from unintentional errors or deviations:
- 2.6.2.3.5 CAA will follow a due process of law before imposition of appropriate penalty when dealing with holders of license, certificate, approval, authorization or any other document of entitlement who breach the Ordinance, Rules, Regulations, published requirements or approved procedures.

2.7 FAIRNESS AND FIRMNESS

- 2.7.1 CAA is committed to enforcing the civil aviation Ordinance, Rules, Regulations published requirements and approved procedures in a fair, transparent and firm manner. Concern about potential political consequences or other form of undue interferences should not be taken into consideration when determining the appropriate enforcement action. CAA promotes and apply a policy of fairness and firmness by:
 - 2.7.1.1 encouraging open communication between alleged offenders and enforcement inspectors, especially in cases where there are possible mitigating circumstances;
 - 2.7.1.2 providing oral counseling for minor violations or deviation from the requirements where there is no threat to aviation safety or security;
 - 2.7.1.3 informing offenders of their right to have penalties reviewed by the DGCAA, Board of Review; and
 - 2.7.1.4 ensuring that repeat offenders and those who willfully disregard aviation safety and security are dealt with firmly.

2.8 ENFORCEMENT IN AN SMS ENVIRONMENT

- 2.8.1 Enforcement procedures shall allow service providers to deal with and resolve certain safety issues internally, within the context of the service provider's SMS, and to the satisfaction of CAA.
- 2.8.2 Intentional contraventions of regulations will be investigated and appropriate enforcement measures will be assessed.
- 2.8.3 No information obtained from the collection of safety data established under the context of the service provider's SMS shall be used as the basis for enforcement action unless contravention is deemed as severe or intentional.
- 2.8.4 Service providers must maintain a SMS that is acceptable to CAA for them to deal with contraventions of regulations internally. Under certain conditions will CAA step in to deal with contraventions. The conditions are as follows:
 - 2.8.4.1 Occurrences involving gross negligence, intentional violations or criminal activity
 - 2.8.4.2 Seriously biased/deficient investigations or corrective actions taken by service provider
 - 2.8.4.3 Inadequate/ineffective safety investigation/resolution process by service provider
 - 2.8.4.4 Failure to fully cooperate or provide required safety information to CAA

- 2.8.4.5 Unsatisfactory SMS performance and failure to meet an acceptable level of safety performance
- 2.8.4.6 Service provider is a recurrent violator
- 2.8.5 Clear provisions should be present in the service provider's SMS framework for due consideration in order to distinguish between premeditated violations and unintentional errors or deviations.
- 2.8.6 Service providers will be subject to inspections, including unannounced inspections, and audits to assess the degree of compliance with the safety regulatory requirements. Inspections, audits and other surveillance activity can be scaled down in the event that a safety provider maintains an effective SMS and low safety risk. This lowers the amount of strain of resources on both CAA and the service provider. However, surveillance activity should still continue regardless of performance.
- 2.8.7 The reports, CAA receives from service provider(s), should be confidential and not be used for the basis of enforcement action, unless the violation involved gross negligence, intentional violations or criminal activity

2.9 CONFLICT OF INTEREST

- 2.9.1 The respective Directors and / or Additional Directors, as the case may be, must take measures to prevent real, potential, or perceived conflicts of interest in the conduct of safety and security oversight functions. Similarly, inspectors must also take measures to prevent real, potential, or perceived conflicts of interest in the conduct of their duties. In case, it becomes apparent that there could be a possible conflict of interest during an inspection or investigation, the inspector shall inform his or her supervisor and request to be removed from the case.

2.10 HANDLING OF COMPLAINTS

- 2.10.1 A complaint is a formal expression of dissatisfaction with a civil aviation service, procedure, application of policy, or staff member. Complaints concerning civil aviation personnel shall be handled in accordance with provisions of the civil aviation Ordinance or as may be prescribed thereunder.

2.11 ACCESSIBILITY OF CAA OFFICIALS

- 2.11.1 CAA officials will be accessible to members of the public to explain the enforcement policy process. Suggestions for improvement of this process are always welcomed.

2.12 PROMPT COGNIZANCE OF VIOLATIONS

- 2.12.1 Since each second matter in the safe and secure flight operations, therefore, prompt cognizance of any violation and non-compliance of provisions of the Ordinance or as may be prescribed thereunder, with expeditious finalization would serve the interest of safety and security of flight operations, which is paramount.

Chapter 3

RESPONSIBILITIES

3.1 DELEGATION OF AUTHORITY

- 3.1.1 Rule-5 of CARs-1994 states that;
- 3.1.1.1 The Federal Government or the Authority or the Director General may by order in writing direct that any power or function conferred upon, or entrusted to it, under these Rules (CARs-1994) shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or performed by:
- 3.1.1.1.1 Any officer or authority subordinate to it or him, or
- 3.1.1.1.2 Any other person.
- 3.1.2 Depending upon their particular duties, inspectors may be delegated the authority as considered appropriate by DGCAA. These powers are delegated to CAA inspectors through an Inspector's Identity Card or any other form of written authorization duly signed by DG CAA. The inspectors, only with valid and current delegation, are to exercise delegated powers as provided under Rule 4.
- 3.1.3 The delegation of powers vested in DGCAA to respective Director(s), Additional Directors and inspectors in pursuance of Rule 5, for the purposes of this Manual is also contained separately in Chapter-15. This would simplify the procedure with a view to taking cognizance of violations promptly and disposal of cases expeditiously.

3.2 RESPONSIBILITIES OF THE DELEGATE

- 3.2.1 A delegate is the decision-maker and takes prime responsibility for the enforcement decisions whatever they may be. Although a delegate may be subject to general written directions regarding the mode and manner in which he or she will exercise a power, he or she is not subject to specific direction in relation to any particular decision. It is the delegate's personal judgment and belief that is relevant to the question of whether or not the grounds for the proposed action are sound.

3.3 TECHNICAL AND OPERATIONAL PERSONNEL

- 3.3.1 Without limiting the sorts of tasks which technical and operational personnel may be asked to perform in relation to grant, variation, suspension or cancellation action, it is the responsibility of technical and operational officers (usually those in the field) to:
- 3.3.1.1 Gather or receive the information and evidence, which supports a recommendation for an action.
- 3.3.1.2 Where required, seek advice and input from Director(s) or relevant additional director(s) of the respective functional area(s), as the case may be, in relation to the conduct of the operator, service provider or person in question.

- 3.3.1.3 Complete a non-compliance report and forward it to the respective Director recommending a proposed course of action.
- 3.3.1.4 Draft (in consultation with the Additional Director Legal (Reg.)) the Show Cause Notice (SCN) to the Operator, Service Provider or person affected by the decision.
- 3.3.1.5 Prepare for and attend any show cause hearing desired by the Operator, Service Provider or person affected by the decision.
- 3.3.1.6 Assist Director(s) or relevant additional director(s) of the respective functional area(s), as necessary, by providing all the relevant information with recommendation(s).
- 3.3.1.7 Serve or arrange for the service of the SCN to the operator, service provider or person affected.
- 3.3.1.8 Take any follow-up action that may be necessary (including the provision of technical and operational assistance to the Additional Director Legal (Reg.) in any matter including litigation).
- 3.3.1.9 Update the CAA track records in regard to the operator's, service provider's and affected person's allegiance with regulatory requirements.

3.4 RESPONSIBILITIES OF ADDITIONAL DIRECTOR LEGAL (REG.)

- 3.4.1 It is the responsibility of the Additional Director Legal (Reg.) to: -
 - 3.4.1.1 Provide legal advice to officers and the delegate in relation to actual or proposed imposition of financial penalty, variation, suspension or cancellation action, or any part of the process;
 - 3.4.1.2 Assist officers in the preparation of Show Cause Notice and decision notices, in accordance with provisions of the Ordinance or as may be prescribed thereunder;
 - 3.4.1.3 Conduct, or arrange for the conduct of, administrative process of law litigation arising out of imposition of financial penalty, variation, suspension and cancellation decisions;
 - 3.4.1.4 Keep Director(s) or relevant additional director(s) of the respective functional area(s), updated of the progress and results of any civil court or administrative proceedings; and
 - 3.4.1.5 Represent CAA in any proceedings before the Court of justice or any similar body, where the CAAs decisions have been challenged.

3.5 RESPONSIBILITIES OF DIRECTORS

- 3.5.1 All the respective Directors within their functional areas are the senior delegates and are responsible to:
 - 3.5.1.1 Ensure that their Directorates are organized, staffed and equipped to perform the assigned functions and duties as required by the provisions of civil aviation Ordinance or as may be prescribed thereunder and the DGCAA.
 - 3.5.1.2 Amend the administrative procedures of the inspectors in order to ensure their smooth and efficient functioning.

- 3.5.1.3 Programme the safety and security oversight activities as per the guidelines laid down in the respective Inspectors' Manual.
- 3.5.1.4 Supervise the safety and security oversight activities of the inspectors.
- 3.5.1.5 Liaise with the Operators and Service Providers to ensure smooth and efficient execution of the safety and security oversight functions which includes inspections.
- 3.5.1.6 Ensure that the safety and security oversight activities conform to the civil aviation Ordinance, Rules, Regulations and procedures laid down by CAA.
- 3.5.1.7 Submit periodic and other analytic reports to the DGCAA of the results of the inspections.
- 3.5.1.8 Ensure where required that the inspectors maintain currency of their licenses and carry out refresher training regularly.
- 3.5.1.9 Ensure that inspectors hold credentials, necessary authorizations and provided with handbook, checklists and all the tools and amenities needed.
- 3.5.1.10 Liaise with other regulatory Directorates of CAA and provide them with specialized advice on all operational and technical matters. The expertise of the inspectors is to be used liberally for this purpose.
- 3.5.1.11 Assist DGCAA on all matters relevant to air safety and security.
- 3.5.1.12 Help Aircraft Accident Investigation Board (AAIB) in investigation of accidents/incidents involving aircraft.
- 3.5.1.13 Ensure that the objectives of the inspections are met and that the system of inspection is optimized and institutionalized. Updating of the system to meet the changing situations is imperative and must be pursued.
- 3.5.1.14 Update CAA records in regard to the operator's, service provider's and affected person's allegiance with applicable regulatory requirements.

Chapter 4

INSPECTION

4.1 GENERAL

- 4.1.1 Inspection which is a key part of state's safety and security oversight function, involves the examination of personnel, observation of operator's actual performance, aviation documents, aircraft, cargo, security and medical equipments, premises, aeronautical products such as appliances, parts and components and facilities relating to aeronautics including the ANS services and aerodrome facilities encompassing all activities of regulatory functions of CAA. The purpose of inspection is to determine whether compliance with provisions of the Ordinance or as may be prescribed thereunder, published requirements and approved procedures is being maintained. The inspections may be random inspections, however, where presence of personnel / documents may be required; these could be notified in advance so as to facilitate presence of concerned personnel or availability of documents at the time of inspection. It is a part of the daily routine of a CAA inspector and includes activities such as:
- 4.1.1.1 Flight Operations Inspectors (airline / commercial) conducting audits, inspections, surveillance, flight tests of air operators and other related activities within their domain;
 - 4.1.1.2 Flight Operations Inspectors (general aviation) conducting audits, inspections, surveillance of flying schools and clubs and other related activities within their domain;
 - 4.1.1.3 Dangerous Goods Inspectors conducting audits, inspections, surveillance of dangerous goods and other related activities within their domain;
 - 4.1.1.4 Personnel Licensing Inspectors conducting audits, inspections, examinations, surveillance, flight tests of pilot license applicants and instructors and training organizations and other related activities within their domain;
 - 4.1.1.5 Aeromedical inspectors conducting examinations, supervision, inspection and audit of aircrew, air traffic controller and all other operational personnel, aircrew medical centers, designated flight kitchens of operators, medical related simulator and flight checks, medical supplies / kits on board aircraft and all other related medical aspects critical for aviation safety.
 - 4.1.1.6 Airworthiness Inspectors conducting audits, inspections, surveillance of aircrafts and maintenance organizations and other related activities within their domain;
 - 4.1.1.7 ANS inspectors conducting audits, inspections, surveillance of ANS facilities and procedures and other related activities within their domain;
 - 4.1.1.8 Aerodrome inspectors conducting audits, inspection, surveillance of the aerodrome facilities and procedures and other related activities within their domain;

- 4.1.1.9 Aviation security inspectors conducting inspections, audits and tests of entities including airports, airlines, cargo handlers, ground handlers, catering companies and certified personnel including instructors, hold / hand baggage screeners, cargo screeners and others performing security duties;
- 4.1.1.10 Inspectors of Economic Oversight and Air Transport Directorate(s) conducting audits, inspections, surveillance of operators as well as facilities at airports and other related activities within their domain;
- 4.1.1.11 Any other person authorized by DGCAA.

4.2 INSPECTION AUTHORITY

- 4.2.1 An inspection may be conducted by inspectors pursuant to the authority delegated under Rule 4 (2) (a to g) read with Rule 5 of CARs-1994. Depending upon their particular duties, inspectors may be delegated all or some of the following powers of the DGCAA:
 - 4.2.1.1 at all reasonable times enter any place to which access is necessary;
 - 4.2.1.2 at all times during working hours enter that portion of any factory or place in which aircraft, or parts of aircraft, or aero engines, or parts of aero engines, are being manufactured, overhauled, repaired or assembled, and inspect any such factory or place, aircraft, aero engine, or parts or documents relating thereto;
 - 4.2.1.3 at any time inspect any aircraft which is required by these rules to be certified as airworthy, or in respect of which a certificate of Airworthiness is in force;
 - 4.2.1.4 enter, inspect and search any aircraft registered in Pakistan, or in a contracting State, for the purpose of securing compliance with any of these rules;
 - 4.2.1.5 at any time, conduct or direct such examination or test of the holder of a licence as may be considered necessary to establish the continued medical fitness or the proficiency of the licence holder in the capacity authorized by the licence;
 - 4.2.1.6 require the production of any document, licence, permit or log book related to the operation of an aircraft if in the opinion of the Director-General, or the authorized person, it is necessary for the purpose of inspecting the same;
 - 4.2.1.7 board any aircraft registered in Pakistan, prior to its departure, if his purpose is a flight inspection of the operation of that aircraft, or of the performance of its crew.
- 4.2.2 The authority of inspectors under Rule 4 and / or other Rules is as follows:
 - 4.2.2.1 **Entry for Inspections:-** An inspector's authority to enter aircraft, aerodromes, facilities or premises for the purpose of making inspections is found in Rule 4 (2) of the Civil Aviation Rules, 1994.
 - 4.2.2.2 **Numerous types of inspections:-** The authority to conduct all inspections is derived from Rule 4 (2) of the Civil Aviation Rules, 1994. Inspection includes all those areas for sampling of records, sampling of individuals for competence, aircraft, crew, operational and technical organizations, aerodromes and ANS facilities etc.

- 4.2.2.3 **Production of documents:-** The authority to demand the production of documents is derived from Rule 4 (2) (f) of the Civil Aviation Rules, 1994.
- 4.2.2.4 **Obstruction:-** Any person willfully obstructing or impeding an inspector during an inspection from exercising a power or performing a duty conferred on that person by or under CARs-1994 contravenes Rule 356 (1). This is viewed as a violation / offence and may be proceeded accordingly.
- 4.2.2.5 **Seizure of Evidence:** The inspectors have the implied powers to seize anything found in any place entered for the purposes of inspection, if they believe on reasonable grounds that the items seized will afford evidence with respect to a contravention. Anything seized must have been found by the inspector without resorting to a search or must have been provided voluntarily by a representative of the premises or aircraft being inspected. Items seized are usually those items which would be the subject of a normal inspection.

4.3 SAFETY AND SECURITY POWERS

- 4.3.1 Inspectors are delegated the authority to exercise the following safety and security powers when encountering a situation where there is an imminent concern for aviation safety and security:
- 4.3.1.1 **Detention of aircraft:-** The authority for detention of aircraft is prescribed in Section 8 of Civil Aviation Ordinance, 1960 and Rule 366 of the Civil Aviation Rules, 1994. Inspectors may detain any aircraft under delegated authority which they believe, on reasonable grounds, is unsafe or insecure or is likely to be operated in an unsafe or insecure manner and may take reasonable steps to ensure its continued detention. Once the grounds for detention (e.g. unsafe or insecure condition) have been removed, the aircraft must be released.
- 4.3.1.2 **Suspend aviation documents on the grounds of an immediate threat to safety and security:-** Inspectors may suspend an aviation document under delegated authority on the grounds that an immediate threat to aviation safety or security exists or is likely to occur as a result of an act or thing having been, being or proposed to be done under the authority of the document. The authority for this type of suspension is found in Rules 341 & 342 of Civil Aviation Rules, 1994. When a document is suspended, details of the suspension should be forwarded to the appropriate functional authority for endorsement in the document holder's file and for consideration by the functional authority when contemplating restoration of the document.

4.4 INSPECTION PROCEDURE

- 4.4.1 When conducting routine inspections for the purpose of determining compliance, inspectors shall observe the following procedures:
- 4.4.1.1 Inspectors shall not enter aircraft, ANS facilities, Aerodrome or premises which are locked or where the owner, operator, service provider or appointed representative is not present;

- 4.4.1.2 An inspection should be conducted at a time that minimizes the inconvenience to flight crew, ATC, owner / operator and the travelling public;
- 4.4.1.3 the inspector shall use a credentials card for personal identification;
- 4.4.1.4 the flight crew, ATC and owner / operator of an aircraft or facilities should be informed that an inspection is being conducted;
- 4.4.1.5 a document produced for the purpose of inspection should be kept no longer than is necessary to determine its validity;
- 4.4.1.6 where the validity of a document cannot be determined readily, a photocopy, photograph, accurate record or facsimile of the entries or endorsement on both sides of the document should be made before returning the document;
- 4.4.1.7 Inspectors may seize relevant and appropriate evidence with respect to a contravention discovered during the course of a routine inspection;
- 4.4.1.8 If an unsafe or insecure situation is discovered, the Pilot-in-Command or the aircraft representative shall be informed and the inspector shall decide whether or not immediate detention of the aircraft is required;
- 4.4.1.9 In the event of any obstruction to an inspection, the inspector should politely inform the individual of the purpose of the inspection, the authority granted for performing the inspection, and that the individual is obstructing the conduct of an inspection. If this does not gain cooperation, state that obstruction is an offence, and that a criminal proceeding may be initiated under relevant provisions of civil aviation Ordinance or as may be prescribed thereunder. Should the individual continue to obstruct the inspection, the inspection should be abandoned and legal assistance may be sought for initiation of criminal proceedings under relevant provisions of civil aviation Ordinance or as may be prescribed thereunder;
- 4.4.1.10 Inspections should be completely documented with notes recorded sequentially in the Inspector's Handbook including dates and times.

4.5 SEIZURE, RETENTION AND RETURN OF EVIDENCE

- 4.5.1 Where evidence is seized, the inspector shall ensure;
 - 4.5.1.1 the holder is given a receipt / acknowledgement;
 - 4.5.1.2 the evidence is clearly marked in an identifiable manner;
 - 4.5.1.3 reasonable care is taken to preserve and protect the evidence;
 - 4.5.1.4 continuity of possession of evidence can be assured;
 - 4.5.1.5 where an Aircraft Journey Log is seized, a Temporary Aircraft Journey Log can be issued. The temporary log must contain a statement that the original has been seized. Alternately, a photocopy of the log book properly identified as a certified true copy and signed by the owner, the inspector or the investigator is acceptable. The original is preferred in a court of law but a certified photocopy may be acceptable. Before making a photocopy, the original should be marked in a uniquely identifiable manner to preclude alteration or substitution; and

- 4.5.1.6 the evidence is returned to the person from whom it was seized or who has lawful entitlement to it as soon as practicable when continued retention is not required for the purposes of any investigation, hearing or other similar proceeding. Evidence will be returned within 30 days of seizure and the receipt mentioned above be cancelled if:
- 4.5.1.6.1 there is no dispute as to who is lawfully entitled to it;
 - 4.5.1.6.2 return is not likely to affect aviation safety and security; and
 - 4.5.1.6.3 it is no longer required.

4.6 DETENTION AND RELEASE OF AN AIRCRAFT

- 4.6.1 When inspectors contemplate the detention of an aircraft under delegated authority, they must, if possible, introduce themselves to the pilot-in-command or owner / operator and specify the unsafe or insecure condition or unsafe or insecure operation which they believe to exist or is likely to occur. They should tactfully try to obtain voluntary compliance in correcting the situation. If they are unsuccessful, they should:
- 4.6.1.1 Advise the pilot-in-command or owner / operator of the unsafe or insecure condition or operation and the consequences of failing to abide by the inspector's advice (e.g. detention and/or enforcement action);
 - 4.6.1.2 Where the pilot-in-command or owner / operator is not available or indicates an unwillingness to comply with the inspector's advice, attach to that part of the aircraft most likely to be seen by the flight crew a written notice of detention specifying the unsafe or insecure condition or operation;
 - 4.6.1.3 If necessary, restrain the movements of the aircraft:
 - 4.6.1.3.1 by requesting ATS to deny taxi and take-off clearances;
 - 4.6.1.3.2 by blocking it with vehicles;
 - 4.6.1.3.3 by attaching it to an immovable object; or,
 - 4.6.1.3.4 in extreme cases, and with the assistance of a licensed Aircraft Maintenance Engineer, by judicious and temporary disablement, a record of which must be made in the aircraft log.
 - 4.6.1.4 Whenever possible, and in accordance with Rule 366 of CARs-1994, an aircraft shall be detained without removing it from the custody of its owners or operators. This will permit such persons to make repairs or otherwise remedy the unsafe or insecure situation. However, if no other measures have been or are likely to be effective in alleviating the unsafe or insecure condition or operation, the aircraft may be taken into the custody of the DG CAA. In such cases, all reasonable care shall be taken to preserve and protect the aircraft in the condition in which it was first taken into custody. The aircraft should be released if it will not be operated or if it will be rendered airworthy before operation and will not be operated in an unsafe or insecure manner. Details concerning the detention should be forwarded to appropriate supervisor for a decision on the release of the aircraft from detention by the Competent Authority.

Chapter 5

SURVEILLANCE OPERATIONS

5.1 SURVEILLANCE BY CAA

5.1.1 The most effective method of performing state's safety and security oversight functions and enhancing safety and security within the aviation community is to provide a regulatory presence wherever possible, aiming at promoting voluntary compliance with statutory or regulatory requirements. These aims can best be achieved by inspectors participating in structured surveillance activities. Surveillance may be either routine or special-purpose. The purpose of surveillance by inspectors is to provide a regulatory check for promoting voluntary compliance and detecting contraventions of statutory or regulatory requirements. The probability of being detected is one of the most powerful compliance motivators. When a comprehensive and effective surveillance program is in place, a higher degree of compliance and flight safety and security can be expected.

5.2 FIELD OPERATIONS

5.2.1 **Routine Surveillance**

5.2.1.1 Routine surveillance, which includes surveys, audits, inspections, ramp checks etc. are conducted during the normal course of the inspectors' duties of monitoring day-to-day aviation activity. In the performance of their normal duties, the inspectors automatically and concurrently engage in routine surveillance. Their mere presence stimulates a positive attitude toward compliance while activities commensurate with their duties often lead to enforcement action. The activities comprising routine surveillance are to be chalked out by each relevant function and got approved from the relevant Director separately.

5.2.2 **Discreet Surveillance**

5.2.2.1 Routine surveillance may be discreet. Discreet surveillance is conducted when an inspector does not disclose but hide the fact that he or she is an inspector attached to CAA. No special authorization is required for this type of surveillance. Whether an inspection is overt or covert, the inspector has the same authority and responsibility in dealing with the findings or detections.

5.2.3 **Overt or Covert Surveillance**

5.2.3.1 Most surveillance done by inspectors is of an overt nature; that is, undisguised and designed to deter regulatory infractions and encourage compliance through a visible presence as much as it is designed to deter regulatory infractions and detect violations.

5.2.3.2 There are, however, instances when covert surveillance may be appropriate or necessary to gather evidence, to detect intentional wrong doings of operators and service providers.

5.2.3.3 Covert operations are surveillance activities during which inspectors intentionally represent them as being someone other than a CAA's inspector, that is, surveillance under cover. It may be used when there are reasonable grounds to believe that an open presence may not lead to a successful investigation. All covert operations shall have a prior approval of DGCAA.

5.2.4 **Planned Surveillance**

5.2.4.1 Planned surveillance is directed at specific areas, events and activities by inspectors in support of a surveillance plan.

5.3 **SURVEILLANCE OBJECTIVES**

5.3.1 The primary objective of surveillance is to provide the CAA, by means of comprehensive inspections, with an accurate, real-time evaluation of the safety and security status of the air transport system. The following objectives may be considered when planning surveillance activities: -

- 5.3.1.1 Determining each Operator's / service provider's compliance with regulatory requirements and safe and secure operating practices;
- 5.3.1.2 Detecting changes as they occur in the operational environment;
- 5.3.1.3 Detecting the need for regulatory, managerial, operational and technical changes;
- 5.3.1.4 Measuring the effectiveness of previous corrective actions;
- 5.3.1.5 Promotion of compliance by the establishment of regulatory check;
- 5.3.1.6 Conduct of investigations;
- 5.3.1.7 Detection of contraventions;
- 5.3.1.8 Promotional and educational activities;
- 5.3.1.9 Liaison with detection sources;
- 5.3.1.10 Information gathering; and
- 5.3.1.11 Targeted surveillance.

5.4 **PLANNING RESPONSIBILITY**

5.4.1 The respective directors are responsible for the development and administration of the surveillance plan in their areas of responsibilities. For surveillance plans to be effective, they must be carefully planned and executed. Inspections are specific work activities within a surveillance programme which should exhibit the following characteristics: -

- 5.4.1.1 A specific work activity title;
- 5.4.1.2 A definite beginning and a definite end;
- 5.4.1.3 Defined procedures;
- 5.4.1.4 Specific objectives;
- 5.4.1.5 A requirement for a report of findings (either positive, negative or both); and
- 5.4.1.6 A follow-up action.

5.4.2 Planning and executing any type of surveillance plan may reasonably be broken down into four phases:

- 5.4.2.1 **Phase One** - Developing a surveillance plan by determining the types of inspections necessary and the frequency of those inspections;
- 5.4.2.2 **Phase Two** - Accomplishing the surveillance plan by conducting the inspections;
- 5.4.2.3 **Phase Three** - Analyzing surveillance data gathered from inspection reports and related information from other sources: The purpose of this evaluation is to identify the areas of concern and note areas such as the following:
- 5.4.2.3.1 Non-compliance with statutory or regulatory requirements or safe and secure operating practices;
- 5.4.2.3.2 Both positive and negative trends;
- 5.4.2.3.3 Isolated deficiencies or incidents; and
- 5.4.2.3.4 Causes of non-compliance, trends or isolated deficiencies.
- 5.4.2.4 **Phase-Four** - Determining appropriate course of action. The appropriate course of action often depends on many factors, most of which may be quite subjective. Various options which may be considered are: informal discussion with the operator or aircrew and / or service provider; formal written request for corrective action; withdrawal of CAA approval for a programme, manual or document; and initiation of an investigation leading to formal enforcement / disciplinary action. Corrective action, which an operator or aircrew and / or service provider takes independently of the CAA should also be taken into account. The CAA must also decide whether or not the results of a specific inspection should induce in a modification of their current surveillance program.

5.5 IMPLEMENTATION OF SURVEILLANCE PLAN

- 5.5.1 The implementation of safety and security oversight surveillance plans is concerned with satisfying the CAA objectives of regulatory presence, investigation, detection of contraventions, compliance promotion and education. It is the responsibility of respective Director to implement the surveillance plan in his area of responsibility / activity.
- 5.5.2 **Presence:-** Surveillance should be carried out whenever and wherever aviation activity is most likely to occur including weekends and evenings and even while travelling as passengers. It should to the extent possible cover a cross-section of all modes of operations taking place in the respective field.
- 5.5.2.1 It should be ensured that each surveillance team is composed of inspectors whose specialty is pertinent to the type of surveillance activity.
- 5.5.2.2 It should be ensured that each surveillance team is qualified, duly authorized and is properly briefed for the operation.
- 5.5.3 **Surveillance Methodology:-** Surveillance should generally be carried out overtly. By introducing themselves to the public, inspectors will be able to maximize the promotion of voluntary compliance. Covert operations may be used when there are reasonable grounds to suspect an open presence may not culminate in a successful investigation.

- 5.5.4 **Initial Violation Process:** - Inspectors shall ensure the initial violation process is completed thoroughly when new infractions are detected.

5.6 MONITORING OF SPECIAL AVIATION EVENTS

- 5.6.1 CAA's attendance at special aviation events is intended primarily to establish a regulatory presence and, as such, deter any contraventions from taking place. An obvious CAA presence during air shows, organized fly-ins, parachute-drops and events of similar nature underscores a definite interest in promoting safety in general aviation.

5.7 SURVEILLANCE PROCEDURE

- 5.7.1 The inspectors should be familiar with the operating procedures and facilities used by the operators and service providers. Extensive notes should be taken of all observations. Inspectors should make use of the CAA Inspector Handbook or similar document provided by the CAA for this purpose. Where appropriate, photographs should also be taken. Inspectors should be prepared to use authority pursuant to provisions of the Ordinance or as may be prescribed thereunder as applicable. The inspectors should watch for any regulatory contraventions and where possible prevent a contravention by dealing with the cause proactively. Usually, a friendly approach emphasizing the safety and security element can bring about compliance with the statutory or regulatory requirements.

5.8 REPORTING

- 5.8.1 At the conclusion of the surveillance activity, a detailed report is normally made to the respective Director. If contraventions of the statutory or regulatory requirements have been observed, the report shall be forwarded to the DGCAA and must include any evidence of contraventions that has been gathered as well as an account of all actions taken.
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Chapter 6

DETECTION

6.1 INTRODUCTION

6.1.1 A detection is the discovery of a possible contravention of aviation-related rules and regulations. It may result from activities such as inspections and surveillance programs, and public complaints. A Civil Aviation official must take action on observing a contravention or when apprised of one relating to his / her area of specialty without waiting for further instructions from the superiors, subject to the delegation of authority. It is also necessary that every inspector shall keep the appropriate directorate/branch of the CAA informed if there is any information that the applicable requirements have not been adhered to or to be contravened. At the very least, an inspector should carry out the initial violation process and forward it without delay to the respective director along with all evidence gathered in support of the allegation of a violation. Even when the matter does not require further action, as in the case of an oral counseling, the initial violation process provides the respective director with information which helps to shape the Aviation Enforcement Program.

6.2 INITIAL REPORT OF A VIOLATION

6.2.1 In all cases where an inspector detects a contravention or where information about a possible contravention is received, the inspector should attempt to gather as much information as possible regarding the incident. This is necessary to preserve perishable evidence and to provide sufficient information about the contravention to enable a complete and comprehensive investigation. The initial violation process should simply provide answers to the questions: WHO, WHERE, WHEN, WHAT, WHY and HOW. The information should be recorded and passed to the respective director as soon as possible along with any notes or evidence such as photos, logs, tapes, etc.

6.2.2 The decision to conclude the incident with an oral counseling or to refer the matter for further investigation is entirely at the discretion of the inspector completing the appropriate form / checklist. If the contravention is considered minor, the inspector may opt for oral counseling. If the contravention is of a more serious nature, the inspector must refer the incident without delay to the respective director for further action. The respective director will then determine if a comprehensive investigation should be carried out or further action may be initiated without any investigation.

6.3 DETECTION

6.3.1 **Oral Counseling:-** Oral counseling provides the document holder with immediate counseling on the necessity for compliance. It is an option for inspectors when the contravention is minor and inadvertent or is a safety / security-related violation where there is no direct flight safety or security hazard and the imposition of a sanction is not considered appropriate.

- 6.3.2 Inspectors should assess all aspects of the contravention and the attitude of the document holder to determine whether oral counseling will secure future compliance. Oral counseling may be most appropriate in cases of ignorance or misinterpretation of the law, provided aviation safety or security was not jeopardized, i.e. a minor contravention having little or no impact on safety or security or where there was no indication of a willful act. Oral counseling is not an option when the alleged offender disputes the allegation. In all cases, the inspector should maintain a written record of such counseling, succinctly.
- 6.3.3 **Further Investigation:-** If in doubt about the appropriate action to take in a given circumstance, the inspector should refer the matter to the respective director for further investigation.

6.4 CONTRAVENTIONS OF DANGEROUS GOODS REGULATIONS

- 6.4.1 Within CAA, all flight inspectors who have undergone relevant training programmes as approved by the CAA and been properly authorized, are responsible for promoting compliance with and detecting contraventions of provisions of the Ordinance or as may be prescribed thereunder, published requirements or approved procedures on transportation of Dangerous Goods. Because of the possible hazards involved in the transportation of dangerous goods, all inspectors, upon detection or receipt of a reported violation, shall apprise the Director Flight Standards of the situation. Inspectors should have a basic familiarization of how to identify dangerous goods and must not place themselves in positions that might jeopardize their safety and security.

6.5 INSPECTORS FLYING AS PASSENGERS

- 6.5.1 If inspectors, while flying as passengers on an aircraft either on duty or off duty, detect a contravention which, in their judgement, must be brought to the attention of the flight crew (e.g. a minor disregard of provisions of the Ordinance or as may be prescribed thereunder, published requirements or approved procedures), they shall contact the pilot-in-command (PIC) after the flight has terminated. After identifying themselves, inspectors should indicate to the pilot the nature of the contravention and advise the pilot that they will be making a detailed written report. An initial violation process report shall be forwarded without delay to the respective director. It shall contain sufficient detail including all available evidence to allow follow-up action.
- 6.5.2 The policy of post-flight notification does not apply where the contravention compromises flight safety. An example of this would be the contravention of Flight Operations Requirements which forbids a flight to commence without an inspection for adherence of frost, ice or snow to any critical surface of an aircraft. In such a case, direct and immediate action shall be taken by the inspector.

6.6 AUDIT OR INSPECTION FINDINGS

- 6.6.1 CAA shall have a system to analyze findings of safety and security significance as part of the safety and security plan. A level 1 finding shall be issued by the CAA when any significant non-compliance is detected with the applicable provisions of the Ordinance or as may be prescribed thereunder, published requirements, with the organization's procedures and manuals or with the terms of an approval or certificate or with the content of a declaration which lowers safety or security or seriously hazards flight safety or security. The level 1 findings shall include but not limited to:

- 6.6.1.1 failure to give the inspectors access to the organization's facilities as defined in CARs,1994 during normal operating hours and after two written requests;
- 6.6.1.2 obtaining or maintaining the validity of the organization certificate by falsification of submitted documentary evidence;
- 6.6.1.3 evidence of malpractice or fraudulent use of the organization certificate; and
- 6.6.1.4 the lack of an accountable manager.
- 6.6.2 In the case of level 1 findings the CAA shall take immediate and appropriate action to prohibit or limit activities, and if appropriate, it shall take action to revoke the certificate or specific approval or to limit or suspend it in whole or in part, depending upon the extent of the level 1 finding, until successful corrective action has been taken by the organization.
- 6.6.3 In the case of level 2 findings, the CAA shall grant the organization a corrective action implementation period appropriate to the nature of the finding. At the end of specified period, and subject to the nature of the finding, the competent authority may extend such period subject to a satisfactory corrective action plan agreed by the CAA; and assess the corrective action and implementation plan proposed by the organization and, if the assessment concludes that they are sufficient to address the non-compliance(s), accept these.
- 6.6.4 Where an organization fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the CAA, the finding shall be on notice to a possible level 1 finding, and raised to a level 1 finding if corrective action is still not taken.
- 6.6.5 The CAA shall record all findings it has raised or that have been communicated to it and, where applicable, the enforcement measures it has applied, as well as all corrective actions and date of action closure for findings.

6.7 FINDINGS AND ENFORCEMENT MEASURES

- 6.7.1 If, during oversight or by any other means, evidence is found by the CAA that shows a non-compliance with the applicable requirements by an operator, a service provider or person holding a license, certificate, rating etc. issued in accordance with provisions of the Ordinance or as may be prescribed thereunder, the CAA shall raise a finding, record it and communicate it in writing to the license, certificate, rating etc. holder or service provider. When such finding is raised, the CAA shall carry out an investigation. If the finding is confirmed, it shall:
 - 6.7.1.1 limit, suspend or revoke the license, certificate, or rating, when a safety or security issue has been identified; and
 - 6.7.1.2 take any further enforcement measures necessary to prevent the continuation of the non-compliance.
- 6.7.2 Without prejudice to any additional enforcement measures, when CAA finds evidence showing a non-compliance with the applicable requirements by a person holding a license, certificate, or rating issued by the foreign CAA, it shall inform that competent authority.
- 6.7.3 If, during oversight or by any other means, evidence is found showing a non-compliance with the applicable statutory or regulatory requirements by a person not holding a license, certificate, or rating issued in accordance with the CARs, 1994, the CAA shall take any enforcement measures necessary to prevent the continuation of that non-compliance.

6.8 EXPANDED DESCRIPTION OF THE INITIAL VIOLATION PROCESS

- 6.8.1 The purpose of the initial violation process is to gather information in a systematic and thorough manner when it is suspected that a provision of the Ordinance or as may be prescribed thereunder or published requirements or approved procedures has been violated by an act or omission that warrants further investigation. All inspectors are responsible for gathering pertinent information when they detect a violation of the applicable provision or requirement and for recording that information, preferably in the initial violation process form / checklist. This initial process of collecting information concerning a possible violation is often the only opportunity to preserve perishable evidence.
- 6.8.2 The initial violation process should simply answer the questions: WHO, WHERE, WHEN, WHAT, WHY & HOW and, depending on the circumstances, may be expanded as follows:
- 6.8.2.1 fill out the initial violation process form / checklist;
 - 6.8.2.2 record all possible contraventions (even borderline offences);
 - 6.8.2.3 record date, time and location of the contravention;
 - 6.8.2.4 record the identification of the aircraft and the names, addresses and telephone numbers of all persons involved;
 - 6.8.2.5 preserve perishable evidence and documents such as log books, load control sheets, damaged aircraft parts, engineering records, invoices, etc. Obtain weather reports, etc. if it is suspected they may not be available at a later time. Give the unit manager of an ATS facility a written note requesting that information in the form of flight plans or ATS tapes be secured for later acquisition.
 - 6.8.2.6 take photographs of all objects that cannot be secured or moved;
 - 6.8.2.7 take notes on the events immediately preceding and following the contravention;
 - 6.8.2.8 record the names, addresses and telephone numbers of all witnesses that were present or that may have information and note the information each could provide whether there is duplication or not. (The reason for this is twofold: to freeze evidence so that it cannot be changed later and to enable witnesses to refresh their memory at a later date);
 - 6.8.2.9 approach any person you suspect of committing a contravention and seek their account of the occurrence;
 - 6.8.2.10 contact the respective director for assistance or direction as required.
- 6.8.3 Upon detection of a violation and the completion of the initial violation process, an inspector should forward the same to respective director who may, where required, assign an investigator to the case. Both the reporting inspector and assigned investigator shall continue to coordinate their work as necessary until the conclusion of the case.

Chapter 7

ANALYSIS OF LEGISLATIVE PROVISIONS

7.1 INTRODUCTION

7.1.1 This chapter provides a procedure for analyzing offence creating legislative provisions to obtain a precise interpretation and to determine the facts and evidence required for their enforcement. The decision to continue or terminate a case is often based on the results of the analysis of legislation. Investigators will complete an analysis of each provision which has been contravened for each case where a comprehensive investigation is conducted.

7.2 INTERPRETATION OF LEGISLATIVE PROVISIONS

7.2.1 **Types of Legislative Provisions:** Legislative provisions may be enabling, administrative, informative or offence creating. Only the latter can be the subject of enforcement actions:

7.2.1.1 Enabling provisions are those which confer power on DGCAA or subordinate officers under delegated power to make some other standard procedures or policy. Some enabling provisions in the CARs, 1994 are those which give powers to make Orders and Publications, e.g., Rule 4 (2) (h) & (3).

7.2.1.2 Administrative provisions confer a power to do something or impose a duty on the DG CAA e.g., issuance of licenses. They may provide criteria used in discharging these powers or duties. Although these provisions are for public notice of what the DG CAA can do, their purpose is to provide a statutory basis for administrative procedures or actions.

7.2.1.3 Informative provisions are intended to guide the aviation community and assist individuals in complying with aviation legislation.

7.2.1.4 Offence-creating provisions can be one of two types; first, those which mandate a certain form of conduct and, second, those which prohibit certain form of conduct or act. Non-compliance with these provisions is a violation which constitutes an offence that can result in legal or administrative enforcement action.

7.2.1.5 The legislative provisions of interest in this chapter are the "offence-creating provisions" and are easy to recognize as they contain words such as, "no person shall", "an Operator shall", "the pilot-in-command shall".

7.2.2 A provision is composed of legislative elements. Precise interpretation requires analysis of the various elements of a legislative provision. An element is a segment, either a single word or group of words that expresses a unit of thought. Every element contributes to the total meaning of the legislative provision. Core elements contain the subjects and verbs, while qualifying elements describe or modify core elements. Common elements are those which appear frequently in the legislative provisions (e.g. "no person", "shall fly", "aircraft", "pilot-in-command"). Uncommon elements are those which do not appear frequently (e.g., "legal custody and control", "accredited representative", "influence of alcohol").

7.3 IDENTIFICATION OF POSSIBLE VIOLATIONS

7.3.1 During the early stages of a comprehensive investigation, investigators should list all possible violations, not necessarily in order of importance, and then select the corresponding legislation that should be analyzed. A timely analysis will indicate what evidence is available and what further evidence may be required; it could also determine that there is, in fact, no violation.

7.4 ANALYSIS OF OFFENCE CREATING LEGISLATIVE PROVISIONS FOR INTERPRETATION

7.4.1 Analysis for interpretation consists of the following steps:

- 7.4.1.1 Divide the legislative provision into elements, e.g., (No person) (shall fly) (a helicopter) (on a Sunday);
- 7.4.1.2 Determine the applicability of each element;
- 7.4.1.3 If a meaning is unclear and there are no pertinent regulatory definitions, use dictionary meanings;
- 7.4.1.4 Determine the modifying effect of the qualifying elements;
- 7.4.1.5 Summarize the results to arrive at the interpretation.

7.5 ANALYSIS OF OFFENCE CREATING LEGISLATIVE PROVISIONS FOR EVIDENCE

7.5.1 Where a contravention is suspected, the pertinent legislative provisions should be divided into elements and analyzed for interpretation. The facts that need to be established to prove a contravention and the forms and sources of evidence which tend to establish those facts must then be determined. This is done by first classifying the elements as common or uncommon elements. Types of evidence are:

- 7.5.2 **Standard Forms of Evidence:-** Standard forms of evidence are used to establish the facts concerning common elements. Standard forms of evidence include witness statements / oral testimony, admissions, tape recordings, photographs, objects and documentary evidence such as journey logs, technical logs and business records.
- 7.5.3 **Special Forms of Evidence:-** Special forms of evidence may be needed to establish the facts concerning uncommon elements. Special forms of evidence include FDM, voice-prints, X-rays, magna-flux, dye check, etc.

7.6 SAMPLE ANALYSIS

7.6.1 The matrix given hereunder illustrates a method of analyzing the common elements of many legislative provisions and some uncommon elements for relevant evidence.

7.6.2 Illustrative Analysis of Common Elements

Elements	Facts to be Established	Evidence
# 1 [no person] <ul style="list-style-type: none"> • A common element and a core element • Sets out prohibition 	What person performed the prohibited act	"Standard forms" to identify the person: log book, witnesses For a corporation, refer to registry office for legal name;

Elements	Facts to be Established	Evidence
applying to all persons		obtain Certificate of Incorporation from Registrar of Companies
# 2 [shall fly] • Core element • Describes the prohibited act	The person acted as pilot-in-command, co-pilot, flight navigator or flight engineer; when and where.	“Standard forms” – log book, witnesses
# 3 [attempt to fly] • Core element • Describes the prohibited act	The person intended to fly or made an endeavor to fly; when and where.	Evidence of overt acts showing intent or endeavor to fly, e.g. filing of flight plan, request for clearance
# 4 [aircraft] [no aircraft] • Core or qualifying element	The object referred to was an aircraft defined in CARs. The aircraft must be identified.	“Standard forms” – log book, CoR / CoA, witnesses as required by CARs, Request that certificate indicate status on date of offence
# 5 [the pilot-in-command] • Defined in CARs • Usually, a core element	The suspected violator was the “pilot-in-command”	“Standard forms” – log book, witnesses
# 6 [operate] • Core element • Not defined in CARs • “To work or use machine” (dictionary reference)	The act of operating was performed by the suspected offender. With respect to an aircraft, “operate” includes “fly” as a pilot	“Standard forms” – log book, witnesses, flight plans, ATS record

7.6.3 Illustrative Analysis of Uncommon Elements

Uncommon Elements	Facts to be Established	Evidence
# 1 [unless a flight authority issued under the CARs is in effect in respect of the aircraft] • Qualifying element	a. no such flight authority has been issued b. if issued, flight authority was not in effect at the time	For fact a. use CoA/CoR under CARs For fact b. show that the standard for a flight authority to be in effect was not met at the time
# 2 [or unless a flight authority issued under the laws of the country in which the aircraft is registered is in effect in respect of the aircraft] • Qualifying element	a. no such flight authority has been issued b. if issued, flight authority was not in effect at the time	For fact a. affidavit from the proper authority of the country For fact b. same as a. and expert testimony

<p># 3 [and unless all conditions upon which the certificate or permit was issued have been complied with] • Qualifying elements</p>	<p>Such conditions were not met at the time. Note: conditions of issue are inscribed on the flight authority</p>	<p>Produce a true copy of respective flight authority certified by the DGCA as required under the CARs</p>
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7.6.4 Analysis Matrix – an example

Elements	Facts to be Established	Evidence
<p># 1 [no person] • A common element and a core element • The prohibition applies to all persons</p>	<p>What person performed the prohibited act</p>	<p>“Standard forms” to identify the person</p>
<p># 2 [shall operate... in flight] • A common element and a core element • Specifies the prohibited action</p>	<p>A flight took place</p>	<p>“Standard forms” – journey log, eye witnesses, ATS record, etc. – showing that the aircraft was operated in flight</p>
<p># 3 [an aircraft] • A common element and a core element • Augments the prohibited action</p>	<p>The object referred to was an aircraft as defined in the CARs. The specific aircraft must be identified.</p>	<p>“Standard forms” – journey log, CoR, eye witnesses – to identify the particular aircraft</p>
<p># 4 [unless a flight authority is in effect in respect of the aircraft] • A common element and a qualifying element</p>	<p>a. flight authority was not issued b. flight authority was not in effect</p>	<p>a. CoA/CoR as required under CARs – request that certificate indicate status of aircraft on date of offence b. documents or expert evidence showing why flight authority was not in effect</p>
<p># 5 [and unless the aircraft is operated in accordance with the conditions set out in the flight authority] • An uncommon element and a qualifying element</p>	<p>a. the manner of operation that was not in accordance with the flight authority b. a manner of operation prescribed by the flight authority that was not carried out</p>	<p>“Standard forms” – journey log, eye witness, flight plan – showing deviance from conditions of the flight authority</p>
<p># 6 [and unless the flight authority is carried on board the aircraft. • A common element and a qualifying element</p>	<p>a. flight authority was not carried on board the aircraft</p>	<p>“Standard forms” – eyewitness – showing the flight authority was not carried on board the aircraft</p>

Chapter 8

INVESTIGATIONS

8.1 INTRODUCTION

8.1.1 An investigation is a systematic search for and documentation of the facts relevant to an event from which a decision to take appropriate action can be made. It is the most significant phase of the enforcement process since subsequent action that may affect both individual rights and public safety and security will depend on its thoroughness and adequacy. Consequently, it is imperative for inspectors to have thorough understanding of their inspection and investigative powers in order to conduct thorough investigations and prepare comprehensive case reports. Inspectors must also know what constitutes relevant evidence if CAA is to bring an action against an alleged offender because the only means available to prove that the violation has taken place is through obtained evidence.

8.2 PRIORITIES FOR INVESTIGATION

8.2.1 Priority shall be given to violations received from any Government request. For all other violations the respective director shall assign an investigation priority level based on safety and security impact.

8.3 COCKPIT VOICE RECORDER (CVR) / DIGITAL FLIGHT DATA RECORDER (DFDR)

8.3.1 CVR/DFDR recordings shall not be used by CAA investigators in any enforcement matters. Their use is primarily intended for and limited to aircraft accident investigations to assist in determining the cause of accidents and incidents.

8.4 NO INVESTIGATION CONDUCTED (NIC)

8.4.1 Sometimes, it is evident from the original complaint or the initial violation process that the case does not warrant a comprehensive investigation because of lack of evidence; referral to a foreign or State's agency; statutory limitation; low safety or security item; insufficient resources or other consideration. Nevertheless, the relevant information should be recorded for possible future reference. In such case a note explaining the reason for not investigating further should be attached.

8.5 DEFENCES – NECESSITY, DUE DILIGENCE, OFFICIALLY INDUCED ERROR

8.5.1 If early in an investigation, facts are uncovered which point to the likelihood that an alleged offender could successfully argue that his actions were justified, the investigator may opt to terminate the investigation with a recommendation for no further action. In certain cases, where wrongful conduct can be proven or is admitted, the alleged offender may still be able to raise a defence based on necessity, due diligence or officially induced error. These defences are available in both judicial and administrative proceedings.

- 8.5.1.1 **The Defence of Necessity:-** The defence of necessity has its origins in common law and remains available to alleged offender. In deciding whether the defence has been established, the respective director or authorized investigator should carefully examine the facts to determine whether all of the following conditions apply:
- 8.5.1.1.1 the situation was so urgent and the dangers from inaction were so imminent that it was unreasonable to delay any action;
- 8.5.1.1.2 compliance with the law was demonstrably impossible as the violation was inevitable or unavoidable in that there was no opportunity for an alternative course of action that did not involve a contravention of the rules or regulations; and
- 8.5.1.1.3 the hazards to flight safety and security caused by the contravention were less serious than the hazard posed by complying with the law (e.g. breaking the law is less serious than any accident that might result from complying with it in the particular circumstances).
- 8.5.1.2 In addition, the relevant director or authorized investigator must be satisfied on reasonable grounds that the urgent situation was not brought about by the alleged offender through negligence or a breach of the rules or regulations. In other words, where the alleged offender created the danger, the alleged offender cannot avoid liability for a contravention committed to escape from that danger.
- 8.5.1.3 Where the defence of necessity is proven, the alleged offender cannot be found to have contravened the law because the contravention was necessary to avoid an immediate greater danger (in particular, death or injury).
- 8.5.1.4 **The Defence of Due Diligence:-** In order to establish this defence, the alleged offender must show that due diligence was exercised (all reasonable steps were taken) to avoid committing the contravention. Where due diligence is proven, the alleged offender cannot be found in contravention of the law because all reasonable steps to avoid the contravention were taken. What constitutes due diligence will therefore vary from case to case depending on the facts.
- 8.5.1.5 **Officially Induced Error:-** The defence of officially induced error is available where an alleged offender has reasonably relied upon the erroneous legal opinion or advice of an official who is responsible for the administration or enforcement of the particular law. It must be proved, on a balance of reasonable doubts, that the alleged offender relied on the erroneous legal opinion or advice of the official and that this reliance was reasonable. The reasonableness will depend on several factors, including the efforts made by the alleged offender to ascertain the proper law, the complexity or obscurity of the law, the position of the official and the clarity, definitiveness and reasonableness of the advice given. The defence may at times overlap with the defence of due diligence, but it is separate and distinct.

8.6 APPLICATION OF DEFENCES

8.6.1 Any one of the previously mentioned defences can be raised by the alleged offender during the investigation or at any time before a decision to impose a sanction has been made. If the relevant director or authorized investigator is satisfied that a defence has been established and therefore no offence has been committed, then the case must be closed. When a defence of due diligence or necessity has not been proven, a mitigating circumstance may still exist that may be taken into consideration. If an informal meeting is requested by the document holder, it may be arranged by the relevant director or investigator. If the alleged offender insists the defences are valid, the situation becomes a matter for the DGCAA or the relevant authority to decide.

8.7 COMPREHENSIVE INVESTIGATIONS

8.7.1 If the initial violation process indicates that a contravention took place and further evidence is necessary to establish the facts, a comprehensive investigation must be commenced. The purpose of the comprehensive investigation is to obtain all the evidence necessary to establish the truth. The investigator's objective is not only to obtain sufficient evidence to prove an alleged offence occurred, but also to ensure that all the facts of the incident are disclosed so that natural justice will be served. The procedure for conducting a comprehensive investigation follows:

- 8.7.1.1 identify all provisions that were possibly contravened;
- 8.7.1.2 analyses the rules and regulations allegedly contravened;
- 8.7.1.3 determine the evidence necessary to prove each element of a violation;
- 8.7.1.4 plan and initiate the steps necessary to obtain such evidence;
- 8.7.1.5 obtain information from the alleged offender. The alleged offender must be contacted in person, by telephone or by mail and be advised that:
 - 8.7.1.5.1 an investigation is in progress; and,
 - 8.7.1.5.2 there is an opportunity for the document holder to offer voluntary information.
- 8.7.1.6 co-ordinate the investigation to prevent overlap or conflict with other personnel;
- 8.7.1.7 establish the cause of the violation. e.g. weather, navigation hazard, equipment, deliberate, inadvertent;
- 8.7.1.8 record the relevant information, including a narrative of the facts and circumstances of the event which lead to the alleged violation; and
- 8.7.1.9 prepare a personnel or company enforcement case file incorporating the results of the foregoing activities and a case report.

8.8 CASE CLOSURE – NO FURTHER ACTION (NFA)

- 8.8.1 A case should terminate with no further action if:
- 8.8.1.1 the alleged offender's identity cannot be ascertained;

- 8.8.1.2 the evidence does not provide reasonable grounds to believe the violation took place;
- 8.8.1.3 an un-correctable technical or other flaw in the case precludes further action;
- 8.8.1.4 an exemption had been granted which negated the contraventions; or
- 8.8.1.5 a defence of necessity, due diligence or officially induced error is established.

8.9 INTERVIEWING

- 8.9.1 **General:-** An interview is the questioning of a person who is believed to possess information relevant to the matter under investigation. Interviews are an important source of collecting evidence and information gleaned from such interviews may be used to confirm, clarify, or supplement information learned from other sources. In the absence of measurable data, interviews become the single source of information, and investigators need to be well acquainted with the techniques required to ensure effective interviews. Interviews are often the only way to answer the important “why” questions which, in turn, can facilitate correct and effective safety and security action. An effective interviewer remains objective and avoids making evaluations early in the interview. Even when faced with conflicting evidence, the investigator should listen to what an interviewee has to relate and should suspend judgment of that information until all facts have been gathered.
- 8.9.2 **Success of the Interview:-** Good interviews are the result of effective planning. There are a number of preparatory issues that need to be considered before an interview is conducted:
 - 8.9.2.1 **Timing of Interviews:-** Interviews should be conducted as soon as possible after the occurrence to prevent loss of perishable information as a result of fading memory or rationalization. Passage of time also permits contamination of information. If it is necessary to delay interviews, statements should be requested. These serve the dual purpose of capturing facts before natural decay, in addition to assisting the investigator in the preparation of the subsequent interview.
 - 8.9.2.2 **Location:-** Interviewees should be made to feel at ease, and to this end the investigator should choose a location that is quiet, reasonably comfortable, and free from interruption.
 - 8.9.2.3 **Active Listening:-** During interviews, investigators should minimize their input and instead concentrate on active listening - an investigator who is talking isn't listening. Certainly, the investigator must direct the interview and keep it moving, but, generally, the less active the interviewer, the more productive the result. By listening to what is being said, the investigator will be able to reformulate questions appropriate to the situation, note discrepancies and observe an interviewee's gestures and behavior.

- 8.9.2.4 **Co-operation:-** Co-operation, which is essential to the success of the interview, is often determined by the impression the investigator makes on the person being interviewed. A friendly approach that treats the interviewee as an equal and is as unobtrusive as possible is preferable to one that is effusive or bureaucratic. By developing a relationship of mutual confidence with an interviewee, the investigator is more assured of a free flow of information, ideas and opinions.
- 8.9.3 **Structure:-** Effective interviews are characterized by a logical structure designed to maximize the quality and quantity of relevant information. The interview comprises four basic parts - the plan, the opening, the main body, and the closing - each with a specific purpose.
- 8.9.3.1 **The Plan:-** The investigator needs to define the general objectives of the interview, be aware of what some of the obstacles to achieving those objectives might be. The investigator should have some knowledge of the person being interviewed and should determine questions to be asked based on that knowledge. The sequencing of questions and the placement of the tougher questions can be considered at this step. Preparing a list of questions that has to be rigorously followed is not the purpose of the planning step; rather it is the time to ensure that all areas of concern will be addressed during the interview.
- 8.9.3.2 **The Opening:-** It is important to eliminate as much of their uncertainty as possible. To do so, the investigator should give a good explanation of the investigator's role, the interviewee's role and rights, the purpose of the interview, and the interview process.
- 8.9.3.3 **The Main Body:-** The right question asked in the right way at the right time is a powerful tool; it focuses on the important information; it terminates unproductive conversation; it helps people to concentrate their thoughts; and it allows the interview to flow smoothly.
- 8.9.3.4 Often the easiest and most effective way to begin an interview is with a free recall type question, wherein interviewee is allowed to tell their story without interruption. The investigator should be attentive to what is being said and should refrain from any gestures or mannerisms that may lead interviewee. This approach is non-threatening, it allows interviewee to establish a rapport with the investigator giving the investigator a baseline of uncontaminated information.
- 8.9.3.5 The investigator can begin the questioning for each specific topic with a general question, becoming more specific as the interviewee becomes more specific with the answers. By getting interviewees to co-operate in a general way, the investigator increases the likelihood that they will subsequently co-operate in more specific ways.

- 8.9.3.6 There are various types of questions, each of which will elicit a different type of response. The general or “open” question is the least leading and allows interviewees to answer in their own way and to formulate opinions as they see fit. The open question may not produce exactly the answer expected, and it may be appropriate for the investigator to redirect interviewees by means of a supplementary question which is more specific. The “closed” question (one evoking a “yes” or “no” response), produces limited information and should be avoided, unless specifically intended.
- 8.9.3.7 Questions should be brief, clear, and unambiguous. They should be relevant to the information required and be presented one at a time. Jargon and terminology that may confuse or intimidate interviewees should be avoided. Some interviewees who have had difficulty recalling events benefit from hearing the tape recording of their initial description of the occurrence. While listening to the account they suddenly recall forgotten information. Near the end of an interview, interviewees should be asked if they have any other information to add or if they have any questions.
- 8.9.3.8 **The Closing:**- The closing is the time to summarize the key points and to verify understanding of the information obtained; to assure the interviewee that the interview has been valuable; to establish the availability of the interviewee at a future date should that be necessary; and to indicate the availability of the investigator should the interviewee wish to provide additional information or enquire about the progress of the investigation.

8.10 ASSESSMENT

- 8.10.1 None of the information gained in an interview should be accepted at face value. Issues such as health can be verified against medical records; fatigue against work schedules; attitudes toward management, training and maintenance against interviews with family members, friends and colleagues, etc. By comparing the information gathered during interviews to information gleaned from other sources, the investigator will be able to piece together the puzzle more accurately and establish the credibility of various interviewees.
- 8.10.2 In assessing the validity and significance of the information, the investigator should remember that interviewees’ portrayals of facts are influenced by personal biases - so too are the investigators. One example of bias is the “halo effect”, which occurs when an investigator forms a global impression (either positive or negative) of a person, based on one characteristic that biases the interviewer’s assessment of the other person’s ideas.
- 8.10.3 In summary, an interview is a dynamic event conducted in real time; planning, experience and responsiveness on the part of the interviewee are all keys to a successful outcome. While re-interviews are possible, there is no substitute for the effective first interview.

8.11 WITNESS VS ALLEGED OFFENDER INTERVIEWS

- 8.11.1 The above guidelines apply more for witness interviews. However, interviews for alleged offenders should follow the same principles but the techniques may differ slightly. The key differences lies in the aim of the interview, the person to be interviewed, the timing and location of interview and the techniques to be used.

(The differences are summarized in the below table)

Comparison of Interviews of Witnesses and Alleged Offenders	
Witness	Alleged Offender
<p>Aim ...to gather information and test its validity in order to determine the particulars of the matter under investigation.</p>	<p>...to gather information and test its validity in order to determine whether the subject was responsible for or involved in the matter under investigation.</p>
<p>Who witnesses who are willing to provide the investigator with any information they possess about the matter under investigation.</p>	<p>...persons suspected of offences as well as others who may have information but are reluctant to offer it.</p>
<p>When ...interviews should take place as soon as possible after the event has occurred so that statements by witnesses are not affected by memory loss, influence of talking to others, etc. Immediate gathering of information enables the investigator to prepare for interviewing alleged offenders.</p>	<p>...interviews of alleged offenders should take place ideally after the investigator has gathered enough information to make a judgement on how truthful the subject is. An alleged offender interview is more fruitful after witnesses have been interviewed and physical evidence has been located and evaluated.</p>
<p>Location ...at a place convenient and familiar to the subject or in a neutral setting. The subject's home, place of business or any place where privacy is assured is preferred.</p>	<p>...the interview room at the office is best since it enables the inspector to manage security of the subject and to control other factors which might tend to be distracting.</p>
<p>Technique ...a low-pressure, informal atmosphere is preferred to allow the subject to relate his information in narrative style. Specific questions should be used to gather more detail in to jog the witness' memory.</p>	<p>...basically, the same method as with witness interviews, but the atmosphere is more formal and the investigator works toward a more specific purpose.</p>

8.12 DISCLOSURE OF INFORMATION

- 8.12.1 The CAA policy is one of full disclosure to the document holder or his or her representative. The purposes of the full disclosure policy are:
- 8.12.1.1 to ensure that the document holder knows the case to be met and is able to make full answer and defence;
 - 8.12.1.2 to encourage the resolution of facts at issue; and
 - 8.12.1.3 to encourage the resolution of the case prior to the hearing.
- 8.12.2 The relevant CAA official shall disclose all evidence that may assist the document holder, even if CAA does not propose to adduce it. However, file notes containing personal opinions as well as internal correspondence outlining how to proceed with sanctions shall not be disclosed.

8.13 EXCEPTIONS TO FULL DISCLOSURE

- 8.13.1 Certain information that is related to items of public interest is exempted from the disclosure policy. This information includes but is not limited to the following:
- 8.13.1.1 information concerning a confidential informant, an ongoing investigation, or investigative techniques;
 - 8.13.1.2 information that may be considered a confidence of the government department; and
 - 8.13.1.3 information that cannot lawfully be disclosed or that would be injurious to international relations, national defence or security if disclosed.

Chapter 9

COVERT OPERATIONS

9.1 INTRODUCTION

9.1.1 Most surveillance done by CAA officials is of an overt nature, that is, undisguised and designed to encourage compliance through a visible presence, to deter regulatory infractions and to detect infractions. There are however, instances where covert operations may be appropriate or necessary in order to gather evidence. Covert operations are surveillance activities during which inspectors intentionally represent themselves as being someone other than a Civil Aviation official.

9.2 COVERT OPERATIONS POLICY

9.2.1 Covert operations may be conducted in order to gather evidence of continuing willful violations of the aviation safety or security rules and regulations. Covert operations shall be conducted only when a threat to aviation safety or security exists and when normal investigative means have been ineffective or are likely to be ineffective to stop the unsafe or insecure activity. The decision to conduct a covert operation shall be made by the DGCAA on the advice of the respective director. Should the DGCAA be satisfied that a need exists for inspectors to conduct a covert operation, the respective director will be granted the authority by the DGCAA.

9.3 DEFINITIONS

9.3.1 "Joint Covert Operation" - is a covert operation involving civil aviation officials in cooperation with another agency.

9.4 PRINCIPLES OF COVERT OPERATIONS

9.4.1 The following principles should be considered when planning or conducting covert operations:

- 9.4.1.1 all covert operations shall be approved by the DGCAA;
- 9.4.1.2 respective directors shall be responsible for the conduct of covert operations in their areas of responsibilities;
- 9.4.1.3 the respective director shall ensure adequate command, control and communications are exercised during each operation;
- 9.4.1.4 where CAA contemplates involvement in a joint covert operation, the agency in charge of the operation will be identified prior to the start of the operation;
- 9.4.1.5 CAA may provide technical advice but will not participate actively in a joint covert operation where it is anticipated activity that is likely to place an inspector in physical danger will be encountered during the operation;

- 9.4.1.6 during the planning stage of a joint covert operation, a contingency plan shall be developed that will permit civil aviation inspectors to withdraw from active participation in the operation if there is a likelihood that the inspector's personal safety or security may be jeopardized;
- 9.4.1.7 no inspector shall obtain employment in an aviation company for the purpose of gaining access to information or evidence otherwise unavailable;
- 9.4.1.8 care must be taken to ensure that the associated investigation is not construed as entrapment; and,
- 9.4.1.9 the respective director shall ensure inspectors are thoroughly briefed for the covert operation and are aware of the guidelines for inspectors.

9.5 GUIDELINES FOR INSPECTORS

- 9.5.1 Inspectors engaged in covert operations shall be bound by the following guidelines:
 - 9.5.1.1 in no case shall an inspector counsel or facilitate the commission of an offence;
 - 9.5.1.2 if other illegal acts are detected during an operation, the appropriate enforcement agency shall be notified;
 - 9.5.1.3 if activity that is likely to place an inspector in physical danger is detected, the operation shall be abandoned rather than placing inspectors at risk. In joint covert operations, the contingency plan developed to withdraw the inspectors from the operation will be activated, ensuring the operation or other operatives are not compromised. Inspectors may continue to provide technical advice and support;
 - 9.5.1.4 inspectors conducting an operation are to respect the rights of individuals;
 - 9.5.1.5 inspectors conducting covert operations must not allow a flight to take place or to operate equipment if, in the opinion of the inspector, a condition exists that is an immediate threat to the safety or security of the flight.

Chapter 10

SPECIAL INVESTIGATIVE PROCEDURES

10.1 CONTRAVENTIONS BY MILITARY AIRCRAFT

- 10.1.1 The provisions of civil aviation Ordinance or as may be prescribed thereunder do not apply to:
- 10.1.1.1 Pakistan Military Aircraft; and
 - 10.1.1.2 Foreign Military Aircraft.
- 10.1.2 The CAA shall forward a detection report to concerned Army / Air / Navy Headquarters for any incident involving State's military aircraft or for any incident involving foreign military aircraft operating in the airspace of Pakistan.

10.2 CONTRAVENTIONS BY AVIATION SERVICE PROVIDERS

- 10.2.1 Contraventions detected during an audit or base inspection:-
- 10.2.1.1 When audit or inspection team members detect an apparent contravention of provision of the Ordinance or as may be prescribed thereunder, published requirements or approved procedures, they shall follow the initial violation process including the seizure of relevant evidence. The audit manager / team leader shall identify all such contraventions detected during the audit and will determine whether the related information should be forwarded to the relevant director during the audit or held for inclusion in the audit report. If the audit manager / team leader is of the opinion that a contravention discovered during an audit requires immediate action, the audit manager / team leader shall inform the relevant director of the details and request a comprehensive investigation.
 - 10.2.1.2 On receipt of the audit report, the relevant director will determine which contraventions require comprehensive investigation and deterrent action. If, at the completion of a comprehensive investigation, suspension of an Air Operators Certificate (AOC) or Approved Maintenance Organization (AMO), license of air navigation service provider or certificate of aerodrome operator appears to be the most appropriate sanction, the respective director shall consult with and get approval from the DGCAA before implementing the suspension.
- 10.2.2 Contraventions detected by other means:
- 10.2.2.1 A civil aviation inspector detecting a contravention by an air carrier crew member or employee, air navigation service provider and aerodrome operator must follow the initial violation process to record essential facts. A report must then be made to the relevant director who has responsibility to investigate the matter and to impose a penalty under the delegated authority, if any.

10.2.2.2 The inspector or the director or DGCAA may address immediate operational considerations through the exercise of functional or safety or security related powers under the relevant rules and regulations e.g. the suspension of an AOC, license of ANSP, aerodrome certificate to avoid an imminent threat to aviation safety or security but the matter must be referred for investigation and punitive action for the contravention. An investigator must coordinate a comprehensive investigation involving any air carrier contravention or airworthiness elements or ANSP or Aerodrome operator with the specialty functions before making a recommendation on the final case disposition to the director.

10.3 CONTRAVENTIONS OF FOREIGN AERONAUTICS LEGISLATION BY PAKISTAN AVIATION DOCUMENT HOLDERS

10.3.1 These procedures apply whenever a Pakistan aviation document holder is alleged to have violated foreign Aviation legislation. If the allegations concern a regulation having a direct Pakistan equivalent, the investigation should proceed normally. In cases where allegations relate to a regulation without Pakistan equivalent and where the contravention is confirmed, the relevant director, may proceed administratively or judicially under civil aviation laws, rules and regulations.

10.4 TREATMENT TO AIRSPACE VIOLATIONS

10.4.1 From an enforcement point of view, any deviation outside the vertical and horizontal limits associated with a clearance may be considered to be a violation, whether due to equipment degradation, to crew error or to another cause. Airspace violations are subject to investigation in the same manner as any other contravention would be investigated.

10.5 CONTRAVENTIONS INVOLVING FOREIGN CIVIL AIRCRAFT

10.5.1 In the event that an inspector is apprised of an alleged offence by a foreign operator, the allegation of the offence should be forwarded to that Civil Aviation Authority where the alleged offender's aircraft is registered. A Preliminary Investigation shall be conducted and any perishable evidence shall be collected. This includes the securing of ATS records and any available aerodrome traffic movement records as well as loading information, etc.

10.5.2 Once the Preliminary Investigation has been conducted, the DGCAA shall be apprised of the situation. Any immediate threat to aviation safety or security shall be dealt with without delay. Once the situation is stabilized and the immediate threat has been mitigated, the DGCAA will apprise the foreign Authority of the aircraft's State of Registry by letter, including copies of the relevant information for their investigation and action. However, all this will not prejudice CAA's right of enforcement in accordance with laws of Pakistan.

10.6 REQUESTS FROM FOREIGN CIVIL AVIATION AUTHORITIES

10.6.1 Requests for assistance from foreign civil aviation authorities are normally received in headquarters and are relayed to the appropriate department for action. In any event, full Pakistan CAA cooperation will be extended keeping in view the intent of Article 12 of the Chicago Convention.

Chapter 11

INVESTIGATION REPORTS

11.1 INTRODUCTION

11.1.1 An investigation report is an abridged relation of the facts of a case drawn up by the investigator for use by the respective director(s). The investigation report provides a method of systematically compiling and summarizing all information pertinent to the case so that the respective director(s) can quickly become as familiar and conversant with the case as possible without the need to review in detail the complete contents of the file. After reading the investigation report, the respective director should have a sufficient understanding of the case to be able to determine with confidence the appropriateness of the action recommended by the investigator. The investigation report also serves as a checklist for the investigator to ensure that all necessary investigative steps have been completed and nothing further remains to be done. It should be as accurate and comprehensive as possible.

11.2 CONTENT AND PREPARATION OF CASE REPORTS

11.2.1 The cover sheet of the investigation report should contain the identity of the alleged offender by name and licence number, if appropriate, as well as the alleged contraventions and the name of the investigator. This should be followed by a case synopsis, which could be described as a thumbnail sketch of the case, providing the respective director(s) with a quick overview of the situation. Next is a sheet fully identifying the alleged offender by name, address and date of birth, and setting out licensing details and details of the aircraft involved. An analysis of legislation follows breaking down the alleged contraventions into their elements, listing the facts to be established and identifying the evidence to be used to prove those facts. A list of evidence which may be entered as exhibits if the case were to progress to the DGCAA should be followed by the exhibits, e.g. copies of statements, diagrams, photographs and Certificates. The exhibits should be flagged with a letter to ensure quick and easy location. Originals of the items can be placed in the Investigation report. If applicable, the alleged offender's enforcement history is indicated next. The package is rounded off with the inspector's recommendation in which any mitigating or aggravating circumstances may be outlined. While preparing an investigation report demands much work, a case cannot be expediently concluded without a properly prepared case report. In some instances, many man-hours may have been expended in investigating the offence. A successful and thorough investigation should not be jeopardized by the use of a poorly prepared or inadequate case report.

An example of an Investigation Report follows:

SAMPLE CASE REPORT

File Reference No _____

INVESTIGATION REPORT

Alleged Offender's Name:

Civil Aviation Document (License/approval/certificate etc.) Number held by the alleged offender:

List the Provisions of the Ordinance, Rules, Regulations or ANOs etc. contravened by the alleged offender;

- a)
- b)
- c)
- d)
- e)

Date:

Signature of the Investigating Officer

Name of the Investigating Officer

Position held by the Investigator

CASE SYNOPSIS

(This summary of the case is intended to provide the respective director(s) with an overview of the situation)

IDENTIFICATION OF THE ALLEGED OFFENDER

Name: (Offender’s name)

Address: (Offender’s Address)

D.O.B.: (Offender’s DOB, if applicable)

License/approval: (Offender’s License – type and number)

AIRCRAFT/FACILITY

Identity: (Aircraft Type, Model, Registration, Facility type)

Owner: (Aircraft Owner/Facility name)

Address: (Aircraft Owner’s/Facility address)

ANALYSIS OF LEGISLATION

Allegation: Contravention of a particular provision of the Civil Aviation Ordinance, Rules, Regulations, ANOs etc.

(Text of the provision(s) violated)

ELEMENTS (Reg. Element)	FACTS TO BE ESTABLISHED (Reg. Element)	EVIDENCE	EXHIBIT

ANALYSIS

INVESTIGATOR'S RECOMMENDATION

SUPERVISOR'S COMMENTS

RESPECTIVE DIRECTOR'S DETERMINATION

DGCAA DECISION

LIST OF EXHIBITS

Chapter 12

ADMINISTRATION ACTION

12.1 INTRODUCTION

12.1.1 Administrative action comprises all deterrent measures, other than legal action, taken by the DG CAA pursuant to the provisions of the Ordinance or as may be prescribed thereunder. Administrative action in the form of a suspension or oral counseling can be enforced in all violations. Generally all deterrent actions taken by CAA are administrative actions. They are usually concluded expeditiously, yet the violator / offender is provided privileges of natural justice.

12.2 OBJECTIVES OF ADMINISTRATIVE ACTION

12.2.1 The major objectives of administrative action are:

12.2.1.1 to protect the individual and the public from possible harm;

12.2.1.2 to encourage future compliance; and,

12.2.1.3 to deter others from contravening civil aviation legislations.

12.2.2 Achieving these objectives will contribute to the advancement of aviation safety and security which is the primary aim of aviation rules and regulations.

12.3 TYPES OF DETERRENT ACTION

12.3.1 There are two types of deterrent actions: legal and administrative. Legal action involves the prosecution of an alleged offender in a summary trial by DGCAA or in the criminal courts in relation to offences / violations of the civil aviation Ordinance, 1960, CARs, 1994, Air Navigation Order or any direction made thereunder. Administrative action comprises all other measures taken by the DGCAA pursuant to the provisions of the Ordinance or as may be prescribed thereunder and includes oral counseling, remedial training, imposition of financial penalty, suspension or cancellation of documents. Cancellation of documents is subject to approval of Federal Government.

12.4 ADMINISTRATIVE ACTION

12.4.1 There are four types of administrative actions which may be taken when a contravention has occurred. Determination of the appropriate action depends upon policy considerations, the detection source and the circumstances of each contravention:

12.4.1.1 oral counseling;

12.4.1.2 a monetary penalty;

12.4.1.3 a suspension or variation of an aviation document; or,

12.4.1.4 a cancellation of an aviation document.

12.4.2 **Oral Counseling:-** Oral counseling is primarily used when an aviation document holder commits a minor inadvertent violation where the imposition of a sanction is not considered appropriate. It provides the document holder with immediate counseling on the necessity for compliance. All civil aviation inspectors can provide oral counseling relevant to their respective delegation of authority. Remedial training is primarily used when an aviation document holder commits a minor inadvertent violation due to incompetence or lack of knowledge and where the imposition of a sanction is not considered appropriate. It provides the document holder with the opportunity to acquire the necessary knowledge or skill to ensure future compliance. All civil aviation inspectors can recommend remedial training relevant to their respective delegation of authority.

12.4.3 **Monetary Penalty:-** The DGCAA may impose financial penalty based on his own assessment or on the recommendation of the respective director or authorized delegate or relevant inspector, as the case may be, for contravention or non-compliance of statutory or regulatory requirements. The level of financial penalty depends upon the gravity of the offence / violation. The financial penalties are mentioned in chapter 14 of this Manual. The offender will be given an opportunity to clarify his or her position why a financial penalty should not be imposed in the interest of safety or security. If the justification is not satisfactory then a financial penalty may be imposed by the DGCAA.

12.4.3.1 **Legal basis for imposition and recovery of financial penalty:-** Following are the enabling provisions in the CARs, 1994 with regard to imposition of financial penalty:

12.4.3.1.1 **Authority for Financial Penalty:-** Rule 334(3) of CARs-1994 empowers DGCAA for imposition of financial penalty for contravention of provisions of the Ordinance or as may be prescribed thereunder, warranting suspension or cancellation of an approval, license or certificate under Rule 341 or Rule 342 of CARs-1994. Rule 334 (3) states that;

“Where the Director-General has reason to suspend an approval, licence, or certificate under rule 341 or rule 342, he may suspend the licence, or may impose a financial penalty not exceeding one hundred thousand rupees, or with the approval of the Authority, such amount exceeding one hundred thousand rupees as he may consider appropriate, the penalty to be paid to the Authority”.

12.4.3.1.2 **Recovery of Penalty, Fine or Dues:-** Rule 373 states that when a penalty or fine is imposed, or any dues are outstanding against an Operator or a license holder, the amount of the penalty or fine, or the dues as the case may be, shall be recoverable as arrears of land revenue. The amount of penalty shall be deposited in CAA account by the operator; otherwise, recovery action as arrears of land revenue may be initiated.

12.4.3.2 **Procedure for Imposing Financial Penalties:-** The following procedure shall apply in all cases where financial penalty is imposed:

- 12.4.3.2.1 The respective director or authorized delegate or inspector, as the case may be, shall determine and recommend the amount of the penalty that is appropriate to the identified risk to safety or security and as provided in the CARs, 1994;
- 12.4.3.2.2 The respective director or authorized delegate or inspector, as the case may be, shall, in consultation with Legal (Reg.) Branch, complete the Show Cause Notice process before imposition of financial penalty. The Notice shall contain a full description of the violation / offence and sufficient details of the contravention, so that the alleged offender/violator can identify the act, omission or incident constituting the contravention;
- 12.4.3.2.3 With the Notice, the respective director or authorized delegate or inspector, as the case may be, shall offer the option for personal hearing to the alleged offender / violator to give him an opportunity of explaining his or her position;
- 12.4.3.2.4 The respective director or authorized delegate or inspector, as the case may be, shall serve the Notice on the alleged offender personally or by registered mail. The date appearing on the Notice shall be the date on which the Notice is to be served or sent;
- 12.4.3.2.5 The financial penalty shall be paid by the method prescribed by CAA;
- 12.4.3.2.6 If the financial penalty is not paid by the due date (within 28 days excluding the day the penalty letter is issued), the respective director or authorized delegate or inspector, as the case may be, shall apprise the DGCAA within 03 days following the due date, for an appropriate / alternate action;
- 12.4.3.2.7 The offender will be notified of the decision of CAA by the respective directorate with respect to the financial penalty imposed in relation to the offence committed;
- 12.4.3.2.8 The record of the enforcement action shall be maintained in the personal file of offender in case of individual offender or in office file of approval holder in case of offender being an organization holding civil aviation documents like approval or certificate.
- 12.4.3.3 **Mode, Time and Consequence of Payment:-** Payment of financial penalty may be made in any of the mode prescribed by the CAA. A person served with penalty letter, must pay to CAA the prescribed penalty within 28 days of being served with such letter. Where a cheque is offered to CAA to pay the prescribed penalty, payment is taken not to have been made unless and until the cheque is realized. DG CAA may allow an extension of the period for payment, on application by the recipient of the penalty letter within the period of 28 days after the date of the Notice. If payment is made within the time permitted or in the extended time, then:
- 12.4.3.3.1 Liability for the offence is discharged;

12.4.3.3.2 Further proceedings cannot be taken in relation to that offence;

12.4.3.3.3 There is no conviction;

12.4.3.3.4 Records shall be kept to analyze the overall performance.

12.4.4 Suspension or Variation of an Aviation Document:-

12.4.4.1 The DGCAA may suspend or vary the civil aviation documents based on his own assessment or on the recommendation of the respective director or authorized delegate or relevant inspector, as the case may be. The suspension of a civil aviation document for contravention of provision(s) of the Ordinance or as may be prescribed thereunder is the most severe administrative sanction which DG CAA can impose. Suspension action is taken where a financial penalty would be an inadequate deterrent or continued use of the document or privileges thereunder would create a hazard to aviation safety or security and legal action is either not available or inappropriate. Suspension of an aviation document would usually be appropriate where persons, operators and / or service providers or their employees had repeatedly contravened provision(s) of the Ordinance or as may be prescribed thereunder even though the safety or security implications were minimal. The offender will be given an opportunity to clarify his or her position why the civil aviation documents should not be suspended or varied in the interest of safety or security. If the justification is not satisfactory then the civil aviation document may be suspended or varied by the DGCAA. However, no such opportunity will be afforded where the situation warrants prompt action of suspension due to immediate safety or security risk and where the suspension is required for the purpose of investigation, but the statements of facts constituting the contraventions shall be described in the Suspension Order;

12.4.4.2 Where a civil aviation document has been suspended, the person, operator or service provider to whom it was issued shall return it to the DG CAA, if so directed, and shall not exercise the privileges attached to that document until it is restored by the DGCAA. Suspension for contravention is punitive in nature and remains in effect for a specified time period.

12.4.5 Cancellation of an Aviation Document:-

12.4.5.1 The DGCAA may revoke with approval of the Federal Government the civil aviation documents based on his own assessment or on the recommendation of the respective director or authorized delegate or relevant inspector, as the case may be. The civil aviation document may be revoked in the interest of aviation safety or security with due consideration of following factors:

12.4.5.1.1 Repetitive violations by the persons, operators and / or service providers or their employees amounting to enforcement action of suspension of civil aviation document. The decision will be taken on case to case basis depending on the severity of violations;

- 12.4.5.1.2 Gross negligence or willful violation endangering the safety or security of aircraft, occupant and the general public;
- 12.4.5.1.3 Cancellation would also be appropriate where suspensions or monetary penalties are not having the desired effect;
- 12.4.5.2 The offender will be given an opportunity to clarify his or her position why the aviation documents should not be revoked in the interest of aviation safety or security . If the justification is not satisfactory then the civil aviation document may be revoked by a decision of the DGCAA. However, final approval regarding the cancellation / revocation of the civil aviation documents rests with the Federal Government.
- 12.4.6 Legal basis for Variation, Suspension and Cancellation of Aviation Documents:-
- 12.4.6.1 Following are the enabling provisions in the CARs, 1994 with regard to variation, suspension and cancellation of civil aviation documents:

Rule 185. Variation, Suspension and Cancellation of Licenses:-

(1) In the interest of securing more effective development of air transport, or in the general interest of the public, the Director-General may with the prior approval of the Federal Government may amend the terms of a license issued under this Section, provided that the holder of that license shall be given not less than twenty-one days to show cause against such an amendment.

(2) On the application of the holder of a license for an amendment to be made to that license, the Director-General may with the prior approval of the Federal Government make that amendment if it finds it unobjectionable.

(3) The Director-General may suspend a license granted under this part for such a period as he deems fit or may, with the approval of the Federal Government, cancel such license, if

–

(a) the holder of the license or an aircraft operated has contravened or failed to comply with the provision of the Ordinance or these rules or the terms of the license; or

(b) the Director-General is satisfied that it is necessary in the interest of safety of the aircraft or persons on board the aircraft or public safety, to suspend or cancel the license, as the case may be:

Provided that action under this rule shall be taken after providing reasonable opportunity to show cause against the proposed action."

Rule 341. Suspension or cancellation of aerodrome or flying school licenses and air operator certificates etc.

(1) For the purpose of enforcing compliance with these Rules or with the requirements of Air Navigation Orders, or with directions issued under these Rules, and provided that the purpose is to be secure safety of flight operations, the Director-General may

- (a) Suspend any license or approval granted by him under Parts IV, VI or VIII of these Rules or any certificate granted by him under part XI of these Rules for such period of time as he may consider necessary, after recording reasons therefore in writing, and/or;
- (b) With the approval of the government cancel such a license;

Provided that in each case, notice in writing is delivered by hand to the holder of the License or certificate or is sent to him by registered post at the address given in the application for issue or renewal of the license or certificate.

(2) The notice of suspension or cancellation under this Rule shall include a full statement of the facts or circumstances that constitute the grounds for such action.

Rule 342. Suspension or cancellation of personnel licenses:-

(1) The Director-General may vary, or suspend, and with the approval of the Federal Government may cancel, a license Issued under Part V of these Rules, where he is satisfied that one or more of the following is applicable:

- (a) The license holder has contravened or failed to comply with any provision of the Civil Aviation Ordinance, 1960, the Pakistan Civil Aviation Authority. Ordinance 1982, or of these Rules (CARs-94);
- (b) the license holder fails to satisfy, or to continue to satisfy any requirement prescribed by or specified under these Rules in relation to the obtaining or holding of such a license;
- (c) the license holder obtained the license as a result of making an untrue statement or by means of a misrepresentation;
- (d) the license holder has not complied with the requirements of Air Navigation Orders, or with directions issued under these rules;

- (e) *the license holder has failed in his duty with respect to any matter affecting the safe or efficient flight operation of an aircraft;*
- (f) *the license holder has ceased to be a fit and proper person to have the responsibilities to exercise and perform the functions and duties of a holder of such a license; or*
- (g) *the license holder is required to undergo an examination or test under clause (e), Sub Rule (2), Rule 4 of these Rules,*

Provided that in each case, notice in writing is delivered by hand to the holder of the license, or is sent to him by registered post at the address given in the application for issue or renewal of the license.

(2) Where the Director-General suspends a license in pursuance of sub-rule (1) he shall forthwith investigate the matter, and the suspension shall cease upon the completion of the investigation or at the expiration of thirty days, including the date on which the suspension took effect, whichever is the earlier. In case the investigation is not completed within this period, the Director-General may extend the period of suspension with the prior approval of the Federal Government.

(3) The notice of suspension or cancellation under this Rule shall include a full statement of the facts or circumstances that constitute the grounds for such action.

(4) A license-holder whose license has been suspended or varied under this Rule other than under Sub Rule (5) may appeal to the Director-General against such suspension or variation. An appeal under this Rule shall be lodged with the Director General within fourteen days of the receipt of the notice of the suspension or variation. Such an appeal shall be heard by the Director-General within fourteen days of its being lodged. If the appeal is upheld the Director-General shall rescind the suspension.

(5) The license of a license-holder, who is required to undergo an examination or test under clause (e) of Sub-Rule (2) of Rule 4, shall be suspended until the result of the examination or test is known.

12.4.7 **Suspension and Cancellation Procedure:-** The following procedure will apply in all cases of suspension or cancellation of civil aviation document: -

- 12.4.7.1 The relevant inspector will report the contravention or non-compliance of statutory or regulatory requirements to the respective director or authorized delegate;
- 12.4.7.2 The contravention will be investigated by the relevant inspector to determine if it constitutes immediate threat to the aviation safety or security or the general public;
- 12.4.7.3 If the relevant inspector has enough reason to suspect that the use of the privileges attached with the civil aviation document poses danger to the aviation safety or security or the general public, an immediate instruction will be issued under delegated authority not to exercise the privileges of civil aviation documents;
- 12.4.7.4 If such instructions are not followed by the holder of civil aviation documents, alternate means can be used like advising the air traffic unit not to permit to take off aircraft etc.;
- 12.4.7.5 The respective director or authorized delegate or inspector, as the case may be, shall determine and recommend the appropriate penalty and duration of suspension in case of suspension that is appropriate to the identified risk to safety or security and as provided in the CARs, 1994;
- 12.4.7.6 The respective director or authorized delegate or inspector, as the case may be, shall, in consultation with Legal (Reg.) Branch, complete the process of Show Cause Notice before imposition of penalty. The Notice shall contain a full description of the violation / offence and sufficient details of the contravention, so that the alleged offender/violator can identify the acts, omissions or incident constituting the contravention. However, no such Notice is required in case of suspension where the situation warrants prompt action due to immediate safety or security risk or where the suspension is required for the purpose of investigation; but the statements of facts constituting the contraventions shall be described in the Suspension Order;
- 12.4.7.7 With the Notice, the respective director or authorized delegate or inspector, as the case may be, shall offer the option for personal hearing to the alleged offender/violator to give him an opportunity of explaining his or its position;
- 12.4.7.8 The respective director or authorized delegate or inspector, as the case may be, shall cause service of Notice on the alleged offender/violator personally or send it by registered mail. The date appearing on the Notice shall be the date on which the Notice is to be served or sent;
- 12.4.7.9 Depending on the severity of the offences, the respective director or authorized delegate or inspector, as the case may be, will recommend to the Director General the prescribed penalty including but not limited to the suspension of civil aviation document for specified time frame or the cancellation of such documents;

- 12.4.7.10 Where the alleged offender/violator does not desire a hearing by the respective director or authorized delegate or inspector or the DG CAA, as the case may be, and fails to deliver the cancelled or suspended document, after giving due consideration for delay in the mail, action will be taken against the alleged offender under the Ordinance or as may be prescribed thereunder;
- 12.4.7.11 The offender will be notified of the decision of CAA by the respective directorate with respect to the penalty imposed in relation to the offence committed;
- 12.4.7.12 If the civil aviation document is cancelled, the offender can re-apply to obtain the same by fulfilling all relevant applicable requirement of CAA, unless otherwise indicated in the CAA's decision;
- 12.4.7.13 The record of the enforcement action will be maintained in the personal file of offender in case of individual offender or in office file of approval holder in case of offender being an organization holding civil aviation documents like approval or certificate.

12.5 PERSONAL HEARING

- 12.5.1 The informal meetings of personal hearing offer the alleged offender / violator, who has received a Show Cause Notice, an opportunity to explain his or her case in more detail or to become aware of the sanction. Keeping in mind that the objective of the sanction is to obtain future compliance and provide deterrence to others, the DGCAA or authorized delegates may conduct informal meeting of personal hearing with alleged offenders and may reconsider the matter in view of new evidence or mitigating factors or when the DGCAA or authorized delegates obtain the assurance, during discussion, that the alleged offender will comply in the future. DGCAA or authorized delegate may conduct informal meetings with alleged offenders / violators in person, or through electronic medium. During an informal meeting, DGCAA may enter into penalty negotiations with a view to reaching a settlement in the case. Any discussions during the informal meeting are predicated on the fact that the alleged offender will not question the finding of the investigation.
- 12.5.2 **Factors of Personal Hearing:-** The following factors shall be considered in deciding whether to settle the case during personal hearing or not:
- 12.5.2.1 Evidence of mitigating factors not previously identified during the investigation;
- 12.5.2.2 The alleged offender's enforcement record;
- 12.5.2.3 The nature of the offence;
- 12.5.2.4 The attitude of the offender toward future compliance;
- 12.5.2.5 Whether deterrence can still be achieved through a negotiated settlement;

12.6 SELECTION OF AN APPROPRIATE DETERRENT ACTION

- 12.6.1 The most important decision in the enforcement process is determining the appropriate deterrent action to impose when the evidence indicates that an individual has contravened a provision of the Ordinance or as may be prescribed thereunder. This decision may significantly affect the individual's attitude towards aviation safety or security and towards compliance with applicable aviation legislation in the future.

- 12.6.2 The type of deterrent action permitted in relation to a contravention or non-compliance depends on the nature and gravity of specific contravention or non-compliance. Where a person has contravened a provision of the Ordinance or as may be prescribed thereunder, the DGCAA finally decides on recommendation of the respective director or authorized delegate or relevant inspector, as the case may be, whether to take administrative action or to initiate legal action. The presumption is that a minimum enforcement sanction will be sufficient to achieve compliance. Stringent sanctions for a first offence/violation are more likely to cause resentment than encourage future compliance. Moreover, administrative measures are usually more expeditious than prosecutions because criminal procedure is lengthy and expensive.
- 12.6.3 Where the alleged offender or an authorization / approval has been suspended in the past or has seriously jeopardized aviation safety or security, administrative action may be insufficient. In such cases legal action may be more appropriate, particularly in light of the heavier sanctions normally imposed.
- 12.6.4 Administrative action may be taken for different contraventions arising out of the same circumstances. For the limited number of offences/violations where there is an option, administrative and legal action shall not be normally taken in respect of the same contravention; either one or the other shall be selected depending upon the facts of the particular case.
- 12.6.5 Suspension or cancellation of an aviation document would usually be appropriate where persons, operators and / or service providers or their employees had repeatedly contravened provisions of the Ordinance or as may be prescribed thereunder, even though the safety or security implications were minimal. Cancellation would also be appropriate where suspensions or monetary penalties are not having the desired effect.

12.7 JUDICIAL ACTION

- 12.7.1 Prosecution for a contravention of provision of the civil aviation Ordinance, 1960 and the CARs, 1994 may be initiated in all cases where, in the opinion of the DGCAA, the contravention is serious in nature and it would be appropriate to lodge complaint before the competent Court having Jurisdiction or to have recourse to a summary trial. However, summary trial may be conducted only in case of violation of CARs, 1994. There are two options of prosecution;
- 12.7.1.1 **Summary Trial by DGCAA:-** The DGCAA may, for the purpose of preventing an aircraft or persons from endangering other persons or property, notwithstanding anything contained in the Code of Criminal Procedures, 1898 (Act V of 1898), or any other law for the time being in force, try for the offence in a summary way under Rule 334 (1), in accordance with Sections 262 to 265 of the said Code.
- 12.7.1.2 **Prosecution by Court:-** Jurisdiction of the competent Court may be invoked when a provision of the civil aviation Ordinance, 1960 or the CARs, 1994 or Air Navigation Order or any direction issued thereunder, has been violated.
- 12.7.2 A complaint in writing may be made either by the DGCAA or any of its authorized officer before the Competent Court having jurisdiction. No Court shall take cognizance of an offence except on the written complaint of the DGCAA or authorized officer.

12.8 LIMITATION PERIOD

12.8.1 Sub-Rule (1) of Rule 338 of CARs, 1994 expressly provides limitation period on institution of prosecution. It states that “a prosecution in respect of any offence against the rules may be commenced at any time within one year after the commission of the offence”. Whereas, Sub-Rule (2) states that “For the purposes of sub rule (1), time shall be deemed not to run during any period after the commission of the offence and before the institution of proceedings in respect thereof for which the defendant is outside Pakistan territory”. However, the CARs, 1994 does not specifically impose a bar of limitation period to proceedings brought by way of administrative action for contravention of provisions of the Ordinance or as may be prescribed thereunder.

12.9 JOINT LEGAL-ADMINISTRATIVE ACTION

12.9.1 Legal and administrative action shall not be taken in respect of the same contravention under the CARs, 1994. Either one or the other shall be selected depending upon the facts of the particular case. Rule 372 (2) of CARs, 1994 states that “where a penalty has been imposed on any person or operator for any contravention of these rules, such person or operator shall not be liable to be tried for the same contravention”. However, Legal action and administrative action may be taken simultaneously where evidence discloses that a person has contravened two or more different laws arising from the same incident e.g. violation of the CARs, 1994 and Pakistan Penal Code.

12.10 EMERGENCY ACTION

12.10.1 Occasionally, the contravention of a rule or regulation by person, operator and / or service provider may pose an immediate threat to aviation safety or security. Two courses of action are available in such a situation.

12.10.2 **Aircraft detention or stoppage of service for immediate threat to aviation safety or security:-**Where the threat arises from a particular aircraft that is unsafe or insecure or likely to be operated in an unsafe or insecure manner, that aircraft may be detained pursuant to Section 8 of Civil Aviation Ordinance 1960 and Rule 366 of the CARs-1994. The detention shall remain in effect until the unsafe or insecure condition is corrected. Similarly, the ANS and aerodrome facilities may be stopped with immediate instruction by the inspector under delegated authority and only be resumed once the unsafe or insecure condition is alleviated.

12.10.3 **Air Operator Certificate and other approvals suspensions for immediate threat to aviation safety or security:-** Where the threat arises from the operations of the carrier (instead of a single aircraft), the DGCAA may decide to suspend the Air Operator Certificate under Rule 341 of the CARs-1994. This sort of suspension must be viewed as a last resort to be carried out with extensive consultation among the various functions as appropriate. The DGCAA must be satisfied that the immediate threat to aviation safety or security exists or is likely to occur as a result of an act or thing having been, being or proposed to be done under the authority of the document to be suspended. The AOC suspension shall come into effect immediately and remain in effect until such time as the threat to aviation safety or security is removed. Similarly, the licenses of ANS personnel and certificate of aerodrome service provider may be suspended for immediate threat for civil aviation with an immediate effect.

12.11 VOLUNTARY ENFORCEMENT

12.11.1 License holder, operator and service providers may voluntarily undertake enforcement actions. If the proposed voluntary enforcement action is deemed appropriate by the CAA, the license holder, operator and service providers can carry out the action. Examples of typical voluntary enforcement include:

12.11.1.1 Remedial training being undertaken;

12.11.1.2 Introduction and implementation of a satisfactory SMS;

12.11.1.3 Not employing a particular person in a management position.

12.12 DISCLOSURE OF DETERRENT ACTION TO EMPLOYERS

12.12.1 Employers of CAA aviation document holders should be informed of the deterrent action taken if the contravention took place while the alleged offender was in employment of the company / organization. If the alleged offender was not so employed at the time of the contravention, the disclosure of deterrent action to the employer is not required, unless an exception under the Rules or Regulations applies. An exception may exist where the deterrent action taken against a professional pilot affects the pilot's employment, e.g. suspension of license privileges. An exception may also exist where it would definitely be in the public interest, usually in terms of aviation safety, to inform the employer, e.g. a pilot who has been detected flying while under the influence of liquor. The question of whether or not to inform an employer must be addressed on a case-to-case basis. The DG CAA will decide if disclosure to the employer is appropriate.

Chapter 13

ENFORCEMENT PROCESS AND PROCEDURE

13.1 GENERAL

13.1.1 This Chapter describes the processes and procedures to be followed while taking appropriate enforcement action for violations of statutory or regulatory safety and security requirements. It also identifies review, revision and appealing authorities or forums and describes procedure for review, revision and appeal against an administrative punitive action.

13.2 SHOW CAUSE NOTICE (SCN)

13.2.1 **Definition:-** Show Cause Notice (SCN) means a written notice serves upon the holder of a civil aviation authorization e.g., license, certificate or the like during the process of an administrative punitive action. It contains a full statement of the facts or circumstances constituting contravention(s) / non-compliance(s) of specific provisions of the Ordinance or as may be prescribed thereunder in any particular case which is alleged to the person, operator or service provider to whom the notice to show cause is served. The notice is served to the offender to explain why a specific administrative punitive action should not be taken against it / him with an opportunity of personal hearing. A specific time period is required to be mentioned in the notice during which the offender may show cause as to why CAA should not take an administrative punitive action. Sample Suspension Order and SCN are drafted and appended as **Appendix B & C** to this Chapter, which should be followed by the respective directorates with suitable modifications on case-to-case basis.

13.3 ESSENTIALS OF A SHOW CAUSE NOTICE

13.3.1 Following are the essentials of a Show Cause Notice:

- 13.3.1.1 It contains a full statement of the facts or circumstances constituting contravention(s) / non-compliance(s) of specific provisions of the Ordinance or as may be prescribed thereunder in any particular case which is alleged to the person, operator or service provider to whom the notice to show cause is served;
- 13.3.1.2 A reasonable time period is required to be mentioned in the notice during which the offender may show cause as to why CAA should not take an administrative punitive action;
- 13.3.1.3 It is served in person or shall be sent at the last address given by the person / Operator / Service Provider. Service of Notice must be accomplished properly, as ineffective service can lead to difficulty in pursuing the matter in courts. Rule 374 of CARs-1994 sets out the procedure for service.
- 13.3.1.4 The offender is provided an opportunity of personal hearing to explain his position.

13.4 GROUND FOR SHOW CAUSE NOTICE

13.4.1 A Show Cause Notice may be issued when there is a reason to believe that a person has committed an offence, contravention(s) / non-compliance(s) of provisions of the Ordinance or as may be prescribed thereunder, published requirements or approved procedures. It will normally be an inspector who will recommend through respective director that a matter may be considered for the issue of Show Cause Notice. The director on his own may also recommend issuance of Show Cause Notice for a statutory or regulatory contraventions. The matter may or may not require a further investigation. While it is the DG CAA who will make the final decision on issuing the notice, there are certain general considerations that must be borne in mind when making a recommendation. Appropriate situations for the issue of Show Cause Notices are:

13.4.1.1 Show Cause Notice may be issued, where the person, operator or service provider, as the case may be, fails to submit an acceptable corrective action plan within given time, or the response is considered as inappropriate or un-satisfactory or to implement the acceptable corrective action plan within the time period accepted or extended by the CAA.

However, in the case of detection of any significant non-compliance with the applicable provisions of the Ordinance, or as may be prescribed thereunder, with the operator's or service provider's procedures and manuals or with the terms of an approval, license or certificate which lowers safety or security or seriously hazards flight safety or security, the CAA shall take immediate and appropriate action, to prohibit or limit activities, and if appropriate, it shall take action to revoke the certificate or specific approval or to limit or suspend it in whole or in part, depending upon the extent of significant non-compliance, until successful corrective action has been taken by the person, operator or service provider, as the case may be and the holder must be given full details in writing of the grounds upon which CAA relies for taking such action;

13.4.1.2 When the offence / violation has not been committed through simple misunderstanding of the statutory or regulatory requirements that could be addressed by Informal Enforcement Action;

13.4.1.3 Where the offence / violation has not been committed due to lack of skill or error that could be addressed by Informal Enforcement Action;

13.4.1.4 Where the penalty would be an adequate future deterrent, according to the nature of the offence / violation.

13.5 LEGAL VETTING OF SHOW CAUSE NOTICE

13.5.1 Once it is recommended by the relevant inspector or respective director to serve a SCN, a draft SCN will be forwarded to the Legal (Reg.) Branch for vetting, the Dy. DG (Reg.) for review and the DGCAA for final approval. Thereafter, all further correspondence with the violator/offender shall be made by the respective Directorates i.e. issuing SCN followed by appropriate enforcement action.

13.6 UN-SATISFACTORY REPLY TO SCN AND PENALTY ORDER

13.6.1 The reply to SCN should be verified by the respective director, authorized delegate or relevant inspector against information gathered from other sources. By comparing the information with legal and factual position, the respective director or authorized delegate or inspector, as the case may be, will be able to reach to a judicious conclusion of either accepting or rejecting the cause shown. In case of an inappropriate or un-satisfactory reply or no reply at all to SCN within given time and in presence of the satisfactory level of evidentiary proof, an administrative punitive action may be taken by the DGCAA on recommendation of the respective director or authorized delegate or relevant inspector, as the case may be. Sample Penalty Orders are prepared and appended as **Appendix- D & E** to this Chapter, which should be followed by respective directorates with necessary modifications on case-to-case basis.

13.7 WITHDRAWAL OF NOTICES

13.7.1 DGCAA may withdraw SCN by a written letter of withdrawal, within a reasonable time after the date of service of the Notice or after receipt of the reply thereto submitted by the concerned Person/Operator/Service Provider, when there are sufficient grounds to do so or on knowledge / information justifying such withdrawal. In making such a decision the consideration shall be given to any submissions made by the alleged offender in response to the SCN and/or any other relevant matter.

13.8 RECORD OF SCN AND PENALTY ORDERS

13.8.1 The respective directorate / branch will maintain a register of SCNs and Penalty Orders along with other relevant information for future consumption.

13.9 MERITS REVIEW

13.9.1 In most of the cases, a delegate's (inspector) recommendation for an action is forwarded by the respective director to DG CAA for approval and the final decision is made on merits by the DG CAA whether a Show Cause Notice be issued or otherwise. This is, in a way a "merits review" of the recommendation made by the delegates. It means that the DGCAA decides the better or preferable decision in the circumstances but strictly in accordance with provisions of the Ordinance or as may be prescribed thereunder.

13.10 PROCEDURAL FAIRNESS

13.10.1 When CAA has reasonable ground(s) to believe or perceive that the actions of the holder of a civil aviation authorization has breached the provision of the Ordinance or as may be prescribed thereunder, or are otherwise a threat to aviation safety or security, it must consider what action should be taken. Reasonable ground to believe is the knowledge of facts that would lead a person of ordinary intelligence and prudence to believe. If it is clear that there are likely continuing safety or security implications, CAA is required to take action to remove the threat or potential threat to safety or security. This can be done by varying, suspending or canceling the permission by way of administrative action. When CAA takes away any authorization it must do so under provisions of the Ordinance or as may be prescribed thereunder. This means that the holder must be given the benefit of natural justice or due process, which involves:

- 13.10.1.1 Giving the holder a notice of what actions CAA is proposing to take, i.e., that CAA intends to vary, suspend or cancel the authorization.
- 13.10.1.2 Giving the holder details of the grounds upon which CAA is proposing to take those actions. This should be done by way of a SCN which should contain sufficient details of each individual breach or ground so as to leave the holder in no doubt as to exactly what is alleged.
- 13.10.1.3 Giving the holder an opportunity to submit why CAA should not take the proposed action. Except where safety or security grounds require immediate action to alleviate an immediate danger, this generally involves a reasonable period of time to prepare and lodge a written response.

13.11 APPEAL TO DGCAA

- 13.11.1 A license or certificate holder whose license or certificate has been suspended or varied under the Rules, other than under Sub Rule (5) of Rule 342 of CARs, 1994, may appeal to the Director General against such suspension or variation. An appeal under Rule 342 (4) of CARs, 1994 shall be lodged with the Director General within fourteen days of receipt of the notice of the suspension or variation. Such an appeal shall be heard by the Director General within fourteen days of its being lodged. If the appeal is upheld, the Director General shall rescind the suspension or variation.

13.12 BOARD OF REVIEW

- 13.12.1 An aggrieved person may avail a remedy before the 'Board of Review' to be constituted by the Federal Government. The conditions, formation and procedure for the "Board of Review" is covered under Rule 343 of CARs, 1994 which states:

Rule 343:

- 1) *A person aggrieved by a refusal by the Director-General to grant or renew his license under Part V of these Rules, or by the suspension or cancellation of his license or certificate under Rule 342 may request that the matter be considered by a Board of Review except that a request made by a person who had the granting or renewal of a license refused under clauses (b), (c) or (d) of Sub-Rule (1) of Rule 340, shall not be entitled to make such a request. A request under this Rule shall be lodged within fourteen days of the notification and shall be submitted to the Director-General in writing together with a deposit of two thousand five hundred rupees.*
- 2) *On receipt of such a request, the Director General shall transmit it to the Federal Government with a request that the Board of Review be constituted. For the purpose of this Rule, a Board of Review hereinafter referred to as the Board shall be one that is appointed by the Federal Government consisting of a Chairman and two members.*
- 3) *The Chairman of the Board hereinafter referred to as the Chairman, shall be a person nominated by the Federal Government with a status not below that of Joint Secretary to the Government of Pakistan.*
- 4) *The members other than the Chairman shall possess knowledge or experience of flight operations, or of aeronautical engineering or other special knowledge or experience whichever is appropriate to the matter to be reviewed, and not more than one shall be a member or an*

- employee of the Authority.
- 5) *Immediately after a Board has been appointed, the Director General shall make available all the documents and information relevant to the matter to be reviewed.*
 - 6) *Within seven days after the appointment of Board, the Chairman shall fix a time and place for consideration of the matter and shall give notice in writing of that time and place to the Director General and to the person requesting the review.*
 - 7) *The Board shall make a thorough investigation of the matter and shall consider and give due weight to any evidence, including evidence, if any, not considered by the Director General, which is relevant to the matter.*
 - 8) *The Board may inform itself on the matter in such manner as it thinks fit without being bound by legal Rules of evidence.*
 - 9) *The Director-General or the person requesting the review may be represented by counsel, or agent, who may examine witnesses and address the Board.*
 - 10) *Unless the Chairman otherwise directs, the hearing shall be open to the public.*
 - 11) *The Chairman may by writing under his hand, summon a person to attend before the Board at a time and place specified in the summons, and to give evidence, and to produce such books, documents and writings, or a part or component of an aircraft as may be in the custody or control of that person, which that person is required by the summons to produce. A person served with a summon under this Rule to attend before a Board shall not, after the payment or tender to him of reasonable expenses fail without reasonable excuse, to attend before the Board or to produce the books, documents or writings, or the part or component of an aircraft, as may be in his custody or control, that he is required to produce.*
 - 12) *A summon given under this Rule shall be deemed to be served if:*
 - a. *it is given personally to the person to be served;*
 - b. *it is sent by registered post, addressed to the person to be served, at his last known place of abode or business; or*
 - c. *it is left at the aforementioned last known place of abode or business with some person apparently an inmate thereof and apparently not less than eighteen years of age.*
 - 13) *The Board may examine on oath a person appearing as a witness before it, and for this purpose a member of the Board may administer an oath to the witness. Where a witness objects conscientiously to the taking of an oath, the witness may make an affirmation, instead of taking an oath, such affirmation to have the same force and effect and to entail the same liabilities as an oath. A person appearing as a witness before the Board shall not refuse to be sworn, or make an affirmation instead of taking an oath, or to answer a question relevant to the proceedings put to him as a witness.*
 - 14) *A witness who attends before the Board shall be paid such fees and travelling expenses, by the Director-General as may be determined by the chairman of the Board.*
 - 15) *A person convicted of an offence under Sub-Rule (11) or Sub-Rule (13) shall suffer imprisonment for a period not exceeding six months, or a fine not exceeding five thousand rupees, or both.*

- 16) *In the case of a person accused of an offence under Sub-Rule (11) or Sub Rule (13), it shall not be a Defense for that person to show that he has previously been convicted of a similar offence arising out of the same inquiry.*

13.13 DECISION OF BOARD

- 13.13.1 The Board of Review may confirm, vary or reverse the decision of DG CAA as is covered by Rule 344 of CARs, 1994 that states: "On completion of a review of all the facts and circumstances relative to the matter in question, a Board may confirm, vary, or reverse the decision of the Authority or the Director-General, as the case may be, and the Director-General shall take such action as may be necessary to give effect to the decision of the Board which shall be final."

13.14 APPEAL TO THE FEDERAL GOVERNMENT

- 13.14.1 Rule 375 of CARs, 1994 provides for an appeal by the aggrieved person to the Federal Government. This Rule is reproduced below:-

***Rule 375:** Any person aggrieved by an order passed or action taken by the Director General, or the Authority, under these Rules may appeal to the Federal Government and the Federal Government shall have the power to modify or annul the order appealed against, or issue direction to the Director General or the Authority, as the case may be, as to the manner in which such action is to be taken by them. Provided that this power shall not be available to the Federal Government in respect of any matter where the Director General has certified that the exercise of the power would have a direct adverse effect on flight safety.*

13.15 REVISION OF ORDERS BY THE FEDERAL GOVERNMENT

- 13.15.1 Rule 376 of CARs, 1994 mentions power of the Federal Government to modify or revise orders. This Rule is reproduced below:-

***Rule 376:** Notwithstanding anything contained in these Rules, the Federal Government shall have the power to modify or revise any order in respect of any matter, provided that the power shall not be exercised in respect of an order or action which has been the subject of an appeal under Rule 375 or of Board of Review under Rule 343.*

APPENDIX-B



HEADQUARTERS
PAKISTAN CIVIL AVIATION AUTHORITY
JINNAH INTERNATIONAL AIRPORT
KARACHI-75200, PAKISTAN
Tel: (92-21) -----
Fax: (92-21)-----

Ref: _____

Dated: _____

SUSPENSION ORDER OF LICENSE / CERTIFICATE

WHEREAS, you, Mr./Miss/Mrs./M/s. _____, being an holder of *(title of license / certificate/approval etc. bearing No _____) are required to comply with all applicable civil aviation statutory or regulatory requirements including terms and conditions of license / certificate and to perform duties efficiently and diligently with respect to any matter affecting the safe or efficient flight operation of an aircraft or to conduct flight operation in a safe and efficient manner (as the case may be). Whereas, it is found/noticed/observed/reported that *(write brief statement of facts constituting omission/commission/violation) which jeopardized the safety of flight operation.

WHEREAS, the aforesaid omission/commission amounts to violation of *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be). Whereas, the preliminary investigation indicates that you exhibited negligence or failed to perform your duty by omitting or committing the aforesaid act. While taking cognizance of the incident, a formal Investigation has been ordered to investigate into the matter (applicable where required). In the meanwhile, your licence/certificate No. _____ is hereby suspended with immediate effect under Rule *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be) for a period of _____ days or till completion of the investigation, whichever is earlier.

NOW THEREFORE, you are hereby restrained pursuant to *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be) from exercising privileges of the licence/certificate No _____ during the period of such suspension. You are advised to surrender the custody of your licence/certificate under Rule *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be) to the undersigned within seven (07) days upon receipt of this Order of Suspension.

()
Director General
Pakistan Civil Aviation Authority

To.

Copy to:

(Note: *Descriptions mentioned hereinabove in yellow color are guidelines for OPI for filling up the relevant sections in accordance with the facts of each case. Strike out whichever is inapplicable. Blank spaces must be duly filled-in.

APPENDIX-C



HEADQUARTERS
PAKISTAN CIVIL AVIATION AUTHORITY
JINNAH INTERNATIONAL AIRPORT
KARACHI-75200, PAKISTAN
Tel: (92-21) -----
Fax: (92-21)-----

Ref: _____

Dated: _____

SHOW CAUSE NOTICE FOR IMPOSITION OF PENALTY

WHEREAS, you, **Mr./Miss/Mrs./M/s.** _____, being an holder of ***(title of license / certificate/approval etc. bearing No _____)** are required to comply with all applicable civil aviation statutory or regulatory requirements including terms and conditions of license / certificate and to perform duties efficiently and diligently with respect to any matter affecting the safe or efficient flight operation of an aircraft or to conduct flight operation in a safe and efficient manner **(as the case may be)**. However, you were found in violation of prescribed regulatory requirements by ***(write brief statement of facts constituting the violation)** and thereby intentionally / negligently / recklessly put flight safety, public life and property at risk ***(as the case may be)**.

WHEREAS, you, **Mr./Miss/Mrs./M/s.** _____ have violated the provisions of ***(quote particular applicable provisions of law, rule, regulation, ANO etc., as the case may be)** due to the aforesaid commission or omission which provides sufficient grounds to the satisfaction of the DGCAA, for action in terms of Civil Aviation Rules, 1994.

NOW, THEREFORE, you, **Mr./Miss/Mrs./M/s.** _____ are hereby called upon to show cause as to why enforcement action should not be initiated against you under ***(quote particular applicable provisions of law, rule, regulation, ANO etc., as the case may be)** for imposition of appropriate financial penalty or for suspension or cancellation of your license or certificate ***(as the case may be)**. You are required to submit written reply to the undersigned within (07) days of receipt of this notice, failing which ex-parte decision will be taken against you. Further, you may also state in the reply whether you desire to be heard in person or not, otherwise it will be presumed that you have nothing to offer in your defence and do not wish to be heard in person.

(_____)
Director General
Pakistan Civil Aviation Authority

To,

Copy to:

(Note: *Descriptions mentioned hereinabove in yellow color are guidelines for OPI for filling up the relevant sections in accordance with the facts of each case. Strike out whichever is inapplicable. Blank spaces must be duly filled-in.

APPENDIX-D



HEADQUARTERS
PAKISTAN CIVIL AVIATION AUTHORITY
JINNAH INTERNATIONAL AIRPORT
KARACHI-75200, PAKISTAN
Tel: (92-21) -----
Fax: (92-21)-----

Ref: _____

Dated: _____

PENALTY ORDER

IMPOSITION OF FINANCIAL PENALTY

WHEREAS, you, Mr./Miss/Mrs./M/s. _____, being a holder of *(title of license / certificate/approval etc. No _____) were found in violation of *(quote particular applicable provisions of law, rule, regulation, ANO etc., as the case may be). Accordingly, you were served with a Show Cause Notice dated _____ asking therein to show cause as to why enforcement action should not be initiated against you under the relevant provisions of rules, regulations including ANOs (as the case may be) and in response whereof, you submitted a reply dated _____.

WHEREAS, the undersigned, being Competent Authority, considered your reply but found it **UNSATISFACTORY**. Moreover, you were afforded an opportunity of personal hearing on _____ where you were also unable to account for your position; hence the violation stood established.

NOW THEREFORE, the undersigned, while taking a lenient view after due consideration of all aspects of the case, your reply to the Show Cause Notice and submissions during the personal hearing, hereby imposes a financial penalty of Rs. _____ under *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be). You are directed to pay the financial penalty and deposit it in CAA Collection Account No _____ maintained at _____ within 15 (fifteen) days of receipt of this order, failing which may lead to suspension or cancellation of your license / certificate. In this regard, a copy of deposit receipt shall be provided as evidence for confirmation.

(_____)
Director General
Pakistan Civil Aviation Authority

To,

Copy to:

(Note: *Descriptions mentioned hereinabove in yellow color are guidelines for OPI for filling up the relevant sections in accordance with the facts of each case. Strike out whichever is inapplicable. Blank spaces must be duly filled-in.

APPENDIX-E



HEADQUARTERS
PAKISTAN CIVIL AVIATION AUTHORITY
JINNAH INTERNATIONAL AIRPORT
KARACHI-75200, PAKISTAN
Tel: (92-21) -----
Fax: (92-21)-----

Ref: _____

Dated: _____

PENALTY ORDER

SUSPENSION/CANCELLATION OF LICENSE/CERTIFICATE

WHEREAS, you, M/s. _____, being a holder of *(title of license / certificate/approval etc. bearing No _____) were found in violation of *(quote particular applicable provisions of law, rule, regulation, ANO etc., as the case may be). Accordingly, you were served with a Show Cause Notice dated _____ asking therein to show cause as to why enforcement action should not be initiated against you under the relevant provisions of rules, regulations including ANOs (as the case may be) and in response whereof, you submitted a reply dated _____.

WHEREAS, the undersigned, being Competent Authority, considered your reply but found it **UNSATISFACTORY**. Moreover, you were afforded an opportunity of personal hearing on _____ where you were also unable to account for your position; hence the violation stood established.

NOW THEREFORE, the undersigned, while taking strict view after due consideration of all aspects of the case, your reply to the Show Cause Notice, submissions during the personal hearing and severity of the contravention, hereby suspends/cancels your license/certificate under *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be). You are hereby directed to cease your operations with immediate effect and restrained from exercising privileges of the licence/certificate No _____ during the period of suspension (in case of suspension). You are advised to surrender the custody of your licence/certificate under Rule *(quote particular applicable provisions of rule, regulation, ANO etc., as the case may be) to the undersigned within seven (07) days upon receipt of this Order of Suspension/Cancellation.

(_____)
Director General
Pakistan Civil Aviation Authority

To,

Copy to:

(Note: *Descriptions mentioned hereinabove in yellow color are guidelines for OPI for filling up the relevant sections in accordance with the facts of each case. Strike out whichever is inapplicable. Blank spaces must be duly filled-in.

Chapter 14

SANCTIONS

14.1 GENERAL

- 14.1.1 The contents in this chapter and Tables of Sanctions provide guidance in the selection of an appropriate sanction. The Tables of Sanctions which follow shall be used as a guideline by CAA official when recommending sanction and by the DGCAA when imposing a sanction. Nevertheless, each case must be judged on its own merits and every sanction shall be justified. To that effect, the tables should be adhered to as closely as possible to ensure uniformity in the levying of sanctions and any deviation from the recommended sanction, given the circumstances of the case, must be justified based on the following factors:
- 14.1.1.1 The sanction may be moderated in light of mitigating circumstances, (events which were inadvertently caused by misunderstanding, misconception or an honest mistake);
 - 14.1.1.2 The highest category of document related to the contravention would be the document suspended as a sanction for the contravention;
 - 14.1.1.3 A second offence is considered to take place when the record of a previous similar but not necessarily identical offence is still on the offender's file. (i.e. within a period of three years);
 - 14.1.1.4 Sanctions for all subsequent contraventions should be raised from previous sanctions.

14.2 FACTORS AFFECTING CHOICE OF SANCTION

- 14.2.1 The facts surrounding the commission of the offence:
- 14.2.1.1 What was the role of the offender/violator?
 - 14.2.1.2 Was there any pressure or undue influence exerted by an employer or an employee? and
 - 14.2.1.3 Were there mitigating circumstances not amounting to a defence?
- 14.2.2 The gravity of the offence:
- 14.2.2.1 Was a threat to safety or security posed?
 - 14.2.2.2 Was there any actual harm done?
 - 14.2.2.3 Did the violation result in an incident or accident?
 - 14.2.2.4 Was there careless or reckless conduct? and
 - 14.2.2.5 What is the maximum punishment available?
- 14.2.3 The premeditation or deliberateness of the offence and attitude of the offender:
- 14.2.3.1 While "the mental element" is not relevant to guilt in strict liability offences, it may be indicative of the offender's attitude?
 - 14.2.3.2 Was recklessness involved or plain negligence?
 - 14.2.3.3 What is the offender's attitude toward safety and security? and

- 14.2.3.4 What is the offender's attitude toward future compliance?
- 14.2.4 Personal characteristics to be considered: what is the offender's:
 - 14.2.4.1 Age?
 - 14.2.4.2 Experience level, knowledge and skill in Aviation?
 - 14.2.4.3 Training record?
 - 14.2.4.4 Employment - is a license required to hold employment?
 - 14.2.4.5 Work in relation to CAA aviation documents? and
 - 14.2.4.6 Financial position in regard to the ability to pay a fine or penalty?
- 14.2.5 The record of the offender:
 - 14.2.5.1 Are there any prior sanctions on record?
 - 14.2.5.2 Is this an isolated act or is this person a habitual offender?
 - 14.2.5.3 Are there any related or similar offences/violation on record? and
 - 14.2.5.4 Is there any question of competence or qualification involved?
- 14.2.6 Punishment
 - 14.2.6.1 What is the range of sanctions available?
- 14.2.7 Deterrence and public safety or security:
 - 14.2.7.1 Would the recommended sanction contribute to public safety or security? and
 - 14.2.7.2 Will the sanction act as deterrent to others?
- 14.2.8 Rehabilitation:
 - 14.2.8.1 Will the sanction promote future compliance on the part of the offender?

14.3 TABLE OF LEGAL AND ADMINISTRATIVE ACTION

- 14.3.1 The following table provides suggested enforcement actions which may vary according to the circumstances of the errors / violations / offences and may be invoked commensurate to the severity of the errors, violations and criminal offences / negligence.

TABLE-A - LEGAL AND ADMINISTRATIVE ACTION

Errors/violations/offences		Suggested Enforcement Action	
		Created significant hazard to aircraft and its occupants	May create significant hazard to aircraft and its occupants
Errors	Slips/Lapses	Restriction of Civil Aviation document or Warning Letter or Remedial Training	Oral or Written counseling or Warning letter
	Mistakes	Restriction of Civil Aviation document or Warning letter or Remedial Training	Oral or written counseling or Warning letter
	Repeated errors	Suspension of Civil Aviation document or Remedial	

		Training or Removal from duties	
Violations	Violation	Imposition of financial penalty or suspension / cancellation of Civil Aviation document	Imposition of financial penalty or suspension of Civil Aviation document
	Recurrent violation	Imposition of financial penalty or suspension / cancellation of Civil Aviation document	Imposition of financial penalty or suspension of Civil Aviation document
Criminal offences / negligence	Recklessness/gross negligence	Legal action in form of criminal prosecution and / or administrative punitive action, where applicable.	Legal action in form of criminal prosecution and / or administrative punitive action, where applicable.
	Willful misconduct/ illegal activity	Legal action in form of criminal prosecution and / or administrative punitive action, where applicable.	Legal action in form of criminal prosecution and / or administrative punitive action, where applicable.
	Suspected lack of qualification/ competency	Legal action in form of criminal prosecution and / or administrative punitive action, where applicable.	Legal action in form of criminal prosecution and / or administrative punitive action, where applicable.

14.4 TABLE OF RECOMMENDED MONETARY PENALTIES

- 14.4.1 The imposition of financial penalties described herein, may be resorted to in the first instance when any violation or contravention of statutory or regulatory requirement is intercepted. This would follow in 2nd & 3rd occurrences up to maximum financial penalty. But, if the violation or contravention still persists by a person, an operator or service provider, recourse may be made to suspension and ultimately to cancellation of a civil aviation document. However, the aforesaid principle will not apply in cases of immediate safety or security risk to aviation where suspension or cancellation of civil aviation document may be resorted in the first instant in interest of aviation safety or security.
- 14.4.2 The following table establishes the recommended penalties and should be used in conjunction with the table of legal and administrative action, and the civil aviation Ordinance and CARs, 1994 establishing offences. The maximum monetary penalties listed in the right column may be used as a reference point by CAA official when recommending penalties and by the DGCAA when imposing a penalty. The heftiness of the amount would be indicative of the gravity of the offence.

TABLE-B – MONETARY ACTION

Offence / Violation / Non-Compliance	Individual / Organization
1 st offence / violation / non-compliance	Up to Rs. 100,000/- (Competency of DGCAA)
2 nd offence / violation / non-compliance	Up to Rs. 2,000,000/- (Subject to approval of the Board)
3 rd offence / violation / non-compliance	Up to Rs. 5,000,000/- (Subject to approval of the Board)

14.4.3 The DGCAA may award monetary penalties in accordance with the aforesaid table keeping in view the severity, intensity and frequency of violation or non-compliance of statutory or regulatory requirements. However, in peculiar cases, the DGCAA may impose a financial penalty below or above the aforesaid minimum or maximum limits, subject to required approval where applicable.

Chapter 15

DELEGATION OF POWERS

15.1 NEED

15.1.1 The powers mentioned in the preceding Chapters to be used for enforcement action are vested in DGCAA by virtue of different provisions CARs-1994. However, in view of multifarious duties and functions of DG CAA, it would not be practically possible that every violation is taken cognizance of by him personally culminating in award of penalty or other appropriate action. Furthermore, this would also cause delay in enforcement action by which aviation safety or security may get jeopardized. The purpose, intent and objective of this enforcement manual is to simplify and standardize the process without violating any legal formalities.

15.2 AUTHORITY

15.2.1 The authority for delegation of powers is duly catered for in Rule 5 of CARs-1994 which has already been quoted in Chapter-3 herein above.

15.3 DIRECTIVE

15.3.1 In view of the foregoing enabling provisions, all powers of DGCAA vested in him under various provisions of CARs-1994, in so far as they relate to enforcement action, are hereby delegated to respective directors, additional directors and relevant inspectors in their respective areas of responsibilities. Separate specific Directive(s) under signature of DGCAA will also be issued, where required, in due course, however, this may be used as an authority for delegation in the meanwhile soon after enforcement / commencement of this manual. It is nevertheless brought to notice of all concerned that delegated powers are to be exercised judiciously, cautiously and fairly without any element of arbitrariness, favoritism, bias or prejudice and such like considerations.

15.3.2 A delegation of power under this chapter shall not preclude the DGCAA himself from exercising, discharging or performing at any time any of the delegated powers, duties and functions. Such delegation may be revoked or varied at any time by the DGCAA.