



สำนักงานการบินพลเรือนแห่งประเทศไทย
The Civil Aviation Authority of Thailand

Aviation Enforcement Policy and Procedure Manual

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Approved By

A handwritten signature in blue ink, appearing to read 'Chula Sukmanop', is written over a horizontal line.

Chula Sukmanop
Director General

The Civil Aviation Authority of Thailand

The previous circular on
CAAT Enforcement Policy Manual
2015 Edition, dated 6 Oct 2015
is hereby repealed.

THIS DOCUMENT IS UNCONTROLLED WHEN PRINTED

PREFACE

The Aviation Enforcement Policy and Procedures Manual provides details and guidance to the Civil Aviation Authority of Thailand (CAAT)'s Competent Officials and Aviation Inspectors about each of the existing enforcement tools available to the CAAT and the circumstance under which these tools should be used. To be effective, the CAAT's enforcement procedures must be fair, reasonable, transparent and consistent, and must be perceived as being fair by those subject to regulation. It is vital to keep in mind the difference between compliance and enforcement. Compliance consists of all regulations and safety standards being met. When compliance exists, there is no need for enforcement. Enforcement is the action necessary when compliance is not present. Enforcement requires legal or administrative action.

Compliance and enforcement actions need to be applied as consistently as possible. However, CAAT Competent Officials and Aviation Inspectors shall consider each case individually in order to determine an appropriate enforcement action. They should recommend actions that, in their professional judgment, will appropriately serve the purposes of the CAAT's safety mandate. It is essential that the CAAT's compliance and enforcement programme be conducted in as fair and equitable a manner as possible through application of consistent, transparent and systematic procedures. A vital part of this aspect is to achieve uniformity, transparency and consistency of enforcement action. Similar conduct under similar circumstances should result in the same type of enforcement action. At the same time, it also requires the Officials/Inspectors to make every effort to understand a person's position and take it into account, as well as to let the person know the CAAT's position. There should not be a rigid adherence to precedent without due regard to unusual circumstances.

Many factors are considered in choosing an appropriate course of action to ensure compliance and provide deterrence to breaches of regulatory requirements or procedures. The weight given to various factors often is left to the discretion of the individual officer/inspector. In the exercise of his discretion, the Officer/Inspector should be guided by the following general approach: -

- A person who reports making an honest mistake should generally not be prosecuted or fined, nor should their licence, certificate or authority be suspended or cancelled for reasons of punishment.
- There should be a measured response to less serious contraventions of the safety rules and procedures which may involve counselling and training rather than either criminal prosecution or the suspension or cancellation of licences, certificates or authorities or imposition of any fine penalties.
- People who consciously and wilfully choose to operate outside the rules or procedures and thereby put the lives of members of the public including the passengers or property at risk should be prosecuted and removed from the industry.

It is imperative that the CAAT and the industry work together in a spirit of mutual understanding and close cooperation with a view to achieving a high standard of aviation safety to benefit all. The success of the enforcement programme as set out in this Manual will depend largely on the good judgment of Officers/Inspectors who are able to:

- Earn the respect of the aviation community rather than expecting it merely by virtue of their office.

- Exercise objectivity and judicious restraint, since failure to do so may provoke disregard for compliance and safety.
- Promptly and precisely detect and investigate possible contraventions and report their findings to the appropriate supervisors.
- Determine whether a contravention has, in fact, occurred and whether it involved a risk to aviation safety.
- Consider mitigating factors present at the time of an incident or contravention.
- Ensure that the rules/procedures are fairly and equally enforced and that all persons and corporations are treated equally under the rules.
- Recommend or take effective enforcement action in the case of breach of the legal provisions, particularly when such breaches are deliberate, in order to protect the safety of civil aviation.

I hope that the CAAT Competence Officials and Aviation Inspector will be accessible to members of the public to explain the salient features of this Manual and clarify the doubts, if and when they arise in the course of its implementation.



Chula Sukmanop
Director General
The Civil Aviation Authority of Thailand
10 MAY 2019

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0.3 Record of Revision

Issue	Revision	Effective Date	Revised By	Reasons
01	00	1 JULY 2019	LEG	Initial Issue

0.4 Distribution List

No.	Responsible Person	Type of Document
Original	Manager of Legal Department	Hard Copy
01	Director General	Hard Copy
Original (Electronic)	CAAT Staff	Electronic copy at E-Document System

0.5 GLOSSARY

Act - Air Navigation Act B.E. 2497 (1954) and its latest amendment

Administrative action - Deterrent action taken by or on behalf of the Director, including oral counselling, suspension or revocation of documents of entitlement.

Aviation Inspector - Person appointed by the Director to execute the duties of aviation safety inspector.

Civil Aviation Authority of Thailand (CAAT) – Civil Aviation Authority of Thailand established by the Emergency Decree on Civil Aviation of Thailand B.E. 2558 (2015)

Civil Aviation Document (CAD) - Any license, permit, accreditation, certificate or other document issued by the CAAT with respect to any airman or in respect of any aeronautical product, aerodrome, facility or service. A CAD includes virtually any document of entitlement that authorizes a person to perform functions on his or her behalf.

Competent Official - The Director and a person appointed by the Director to execute the duties under the Act

Compliance - Conformity with the provisions of Act and Civil Aviation Regulations

Comprehensive investigation - The follow-up to the initial violation and resulting Detection Notice, during which conclusive evidence as to whether or not a violation occurred is obtained, so that appropriate enforcement action can be taken.

Deterrent action - Administrative or judicial measures taken in response to a violation in order to encourage future compliance.

Director - Director General of the Civil Aviation Authority of Thailand

Emergency Decree - The Emergency Decree on Civil Aviation of Thailand B.E. 2558 (2015)

Enforcement action - The steps, including deterrent action that must be taken from the moment a possible violation of the Act or Civil Aviation Regulations has been detected until the case is concluded.

Functional authority - Technical services within the CAAT grouped by aeronautical knowledge or skills (such as Personnel Licensing, Aviation Medical, Airworthiness, Flight Operations, Air Navigation, Aerodrome). Functional authority includes the prerogative of a functional specialist to prescribe how the activity within the specialist's area of expertise should be carried out.

Functional direction - The exercise of functional authority through the issuing of and ensuring compliance with policies and procedures and through the provision of advice to line managers and subordinates.

Incompetent - Lacking the knowledge, ability or fitness necessary for effective action; unable to meet specified requirements; not legally qualified.

Initial enforcement 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 oral counselling or to send the information to Legal Department further investigation.

Inspection - The examination of an aircraft or aircraft component to establish conformity with a standard approved by the Authority.

Investigator – The Competent Official or the Aviation inspector who is assigned by the Director to investigate the violation and contravention of the Act and regulations.

Offence-creating provision - A provision of the civil aviation Provisions that mandates a certain form of conduct or prohibits certain conduct and which, if contravened, can result in judicial or administrative deterrent action.

Operator - Any person or company engaged in or offering to engage in an aircraft operation. The terms operation and service provider are used interchangeably.

Reasonable grounds to believe - The knowledge of facts that would lead a reasonable person of ordinary intelligence and prudence to believe that an offence has occurred.

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.

Regulations - Any Civil Aviation Regulation issued by the virtue of the provisions of the Act including Royal Decree, Ministerial Regulation, Regulation of the Civil Aviation Board, Requirement of the Technical Committee, Announcement Department of Civil Aviation, Regulation of the Department of Civil Aviation and CAATs regulation.

Safety Management System - A[systematic] approach to managing flight safety and ground safety to prevent accidents which may happen, including policymaking, planning, organizational structures, accountabilities, and procedures as necessary for safety

Violation - The breach of any offence-creating provision of the Act and Civil Aviation Regulations. The terms violation and contravention are used interchangeably.

CHAPTER 1 - INTRODUCTION

1.1 Enforcement Objective

The overall mandate of Aviation Enforcement is to merely investigate contraventions and then to punish the perpetrators would actually not achieve the greater goal of Aviation Safety, which is the Civil Aviation Authority of Thailand (CAAT)'s primary objective. Consequently, there are other aspects to this segment of regulatory oversight, which must also be considered. Aside from regulatory investigations and field surveillance, which is the prime enforcement mandate of the Competent Official and Aviation Inspector, there is also the requirement for promotional and educational activities designed to maximise the industry's compliance with aviation legislation and regulations. The guiding principle of the enforcement process is that justice must be done and it must be seen to be done. As such it has to be timely, fair, consistent and without favour or prejudice. In addition, it must be open so that the result of the process is an example to others and consequently has a deterrent component.

1.2 Enforcement Priorities

- (a) Education of the industry wherever possible;
- (b) Promotion of compliant attitudes within the industry;
- (c) Regulatory investigations and field surveillance, and;
- (d) Enforcement of the Law and Regulations.

1.3 CAAT Competent Official and Aviation Inspector Responsibility

It is the right and indeed the responsibility of the CAAT and its Competent Official and Aviation Inspector to whom regulatory oversight has been delegated, to take action when deemed necessary, in order to prevent an unsafe situation from turning into a disaster. As a result of this statement, Competent Officials and Aviation Inspectors are instructed to take action immediately upon detecting a real and present threat to aviation safety. The Competent Official and Aviation Inspector may use oral counselling when the alleged offender commits a minor, inadvertent violation, which does not have an immediate safety related impact.

1.4 Enforcement Action

Under the Air navigation Act B.E. 2497 (1954) and its latest amendment, any person who contravenes any provision of the Act and its Regulations may have his licence, certificate, approval, permit, authorization, permission, or other document revoked or suspended.

Furthermore, any person who contravenes a provision of the Act and it is guilty of an offence and shall on conviction be liable to a fine and/or penalty as specified in the applicable provisions.

In most contraventions, enforcement action will involve administrative action. Administrative action includes, but is not limited to, suspension, amendment or cancellation of a licence, certificate, permit, or privilege or any other document issued by the CAAT. The CAAT may also ground or detain aircraft and delay the departure of aircraft.

Examples of documents may include the following;

- (a) Air Operator Certificates (AOC)
- (b) Operations Specification specific authorisation
- (c) Certificate of Registration (C of R)
- (d) Certificate of Airworthiness (C of A)
- (e) Personnel Licences and type ratings
- (f) Medical Certificate
- (g) Approval of Organisation (e.g. AMO, ATO etc.)
- (h) Approval of facility (e.g. Simulator etc)

1.5 Enforcement Process

Where there are grounds to believe that violations are being committed the Competent Official or Aviation Inspector shall conduct planned surveillance for the primary purpose of conducting regulatory investigations. In the absence of such grounds, field activities of Officials/Inspectors should focus on the educational and promotional aspects as opposed to the simple detection of violations.

The aviation enforcement process includes the following segments, which are addressed in detail in further Chapters:

- (a) Inspection
- (b) Surveillance
- (c) Detection
- (d) Investigation
- (e) Analysis of Legislative Provisions
- (f) Special Investigative Procedures
- (g) Deterrent Action
- (h) Administrative Action
- (i) Penalties

1.6 Appeal to Enforcement Action

Under Section 67/12 of the Act, any person or organisation has the right of appeal on any administrative or enforcement action taken against a certificate or licence held by that

individual or organisation. An appeal to any enforcement action of CAAT's Competent Official or Aviation Inspector shall be made to the Director within fifteen days from the date received such orders for reconsideration. The appeal must be in writing and should state the reason for appealing.

On receipt of an appeal the Director shall consider the appeal and complete the reasoning. The decision must be made in writing and notify the appellant of the matter within seven days from the date of receiving the appeal. The decision of the Director is the final judgment.

Filing and accepting appeal, consideration an appeal shall be accordance with the Director's Notification which must at least contain the criteria for giving the opportunity to the parties to express themselves, express and dispute information and proofs, in considering the appeal.

This appeal not a reason for respite the order of such Competent Official or Aviation Inspector.

CHAPTER 2 – POLICY OVERVIEW

2.1 General

CAAT promotes the goal of improved aviation safety by encouraging voluntary compliance with and through the enforcement of Thai aviation legislation and regulation. When necessary, CAAT investigates alleged violations of the legislation and regulation and when violations are established, repeat offenders and those who wilfully disregard aviation safety, are sanctioned.

2.2 Our Obligation

As a contracting State of the International Civil Aviation Organization (ICAO), the government of the Thailand has an obligation to oversee the safe and efficient operation of aviation activity for which it is responsible. Further, as a signatory to the ICAO Convention on International Civil Aviation, the Government has agreed to the application of Article 12 of the Convention, “Provisions of the Air,” which states in part:

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

Accordingly, CAAT supervises and administers the enforcement mandate inherent in the international agreement. Enforcement and sanctioning powers, provided by a legal framework, have been delegated to CAAT Inspectors who have the responsibility and authority to conduct investigations.

As a result of international agreement 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 published aviation safety standards or requirements.

2.3 Voluntary Compliance

We recognize that voluntary compliance with the Act and Regulations is the most progressive and effective approach to aviation safety.

Voluntary compliance is based on the idea that members of the aviation community have a shared interest, commitment, and responsibility to aviation safety, and that they will operate on the basis of *common sense, personal responsibility, and respect* for others in conformity with the best practices of the industry.

Breaches of the Act and published regulations may occur for many different reasons, from a genuine or innocent misunderstanding of that rule, to a blatant disregard for aviation safety. The CAAT has a range of enforcement tools in order to effectively address its safety obligations in light of differing circumstances, the following tools are to be used: -

- a) Counselling
- b) Remedial training
- c) Notices of Penalty including all possible deterrent actions
- d) Variation, suspension and cancellation of authorizations
- e) Recommending prosecution

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

Note:

It should also be noted that under the provisions of Section 47 of the Act, the CAAT could require the holder of CAD to undergo an examination to test for competence. What generally happens in relation to an examination to test competence is that CAAT discovers a deficiency which suggests that allowing the holder to continue to exercise the privileges of that authorisation may constitute an unacceptable risk to flight safety 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 feeling. Any such examination for competence is not considered to be an enforcement action.

2.4 Fairness and Firmness

The CAAT is committed to enforcing the Act and Regulations 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.

The CAAT promotes and apply a policy of fairness and firmness by:

- a) encouraging open communication between alleged offenders and enforcement inspectors, especially in cases where there is will be possible mitigating circumstances;
- b) providing oral counselling for minor violations or deviation from the requirements where there is no threat to aviation safety;
- c) ensuring that repeat offenders and those who wilfully disregard aviation safety is dealt with firmly and CAAT track records are appropriately updated facilitating creation of an overall impression of the operator.

This Manual describes the circumstances in which the enforcement can or must be used to deal with an identified breach of the Act and Regulations or approved requirements or procedures. The subject specific sections of the Enforcement Manual, and the Rules which govern the enforcement tools, are based on the following overarching principles:

- a) Natural Justice and Accountability: Enforcement decisions must be:
 - i) Fair, and follow due process
 - ii) Transparent to those involved
 - iii) Consistent between like circumstances
 - iv) Subject to appropriate internal and external review
- b) Impartiality: Enforcement decisions must not be influenced by:
 - i) Personal conflict or agendas of CAAT inspectors.
 - ii) Irrelevant considerations (such as gender, race, religion, political views or affiliation), or
 - iii) The personal, political or financial power of those involved.
- c) Proportionality: Enforcement decisions must be proportional responses to the identified breaches and the safety risk they give rise to in particular
 - i) the CAAT's first priority is to protect the safety of the members of the public including fare-paying passengers:
 - ii) the CAAT will take strong action against those who consistently and deliberately operate outside the Act, Regulations, Requirements or approved Procedures:
 - iii) the CAAT 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 Act, Regulations, Requirements or approved Procedures,
 - v) the CAAT shall take action when dealing with licensed and certified personnel, who breach the Act and Regulations.

2.5 Implementation of SMS

The CAAT is committed to enforcing the regulations in a fair, transparent and firm manner and also to support the implementation of SMS. This will be achieved by –

- a) encouraging open communication between service providers and enforcement officers/inspectors;
- b) no information derived from safety data collection and processing systems (Established under a SMS) relating to report classified as confidential, voluntary or equivalent category, shall be used as the basis for enforcement action;
- c) when a service provider operating an SMS unintentionally contravenes the Act and Regulations, specific review procedures will be used. These procedures will allow the inspector responsible for the oversight of the service provider the opportunity to engage in dialogue with the organization that it addresses the deficiencies that led to the contravention and to afford the service provider a reasonable time to implement them. This approach aims to nurture and sustain effective safety reporting, whereby service providers' employees can report safety deficiencies and hazards without fear of punitive action. A service provider can therefore, without apportioning blame, and without fear of enforcement action, analyze the event and the organizational or individual factors that may have led to it, in order to incorporate remedial measures that will best help prevent recurrence.
- d) through the Official/Inspector responsible for the oversight for the service provider, will evaluate the corrective measures proposed by the service provider, and/or the systems currently in place to address the event underlying the contravention. If the corrective measures (including any appropriate internal disciplinary actions) proposed are considered satisfactory and likely to prevent recurrence and foster future compliance, the review of the

violation would be concluded with no punitive enforcement action will be taken up by the CAAT.

In cases where either the corrective measures or the systems in place are considered inappropriate officer/inspector will continue to interact with the service provider to find a satisfactory resolution that would prevent enforcement action. However, in cases where the service provider refuses to address the event and provide effective corrective measures, CAAT will consider taking enforcement action or other administrative action deemed appropriate;

- e). For breaches of the Act and Regulations following action will be taken:
- i) providing oral counseling for minor violations or deviation from the requirements where there is no threat to aviation safety;
 - ii) informing offenders of their right to have penalties reviewed; and
 - iii) ensuring that repeat offenders and those who willfully disregard aviation safety are dealt with firmly.

Exceptions

In the following cases, the implementation of SMS policy shall not apply. These cases shall be dealt with vigorous enforcement action in accordance with the enforcement procedures.

- This policy is not applicable if there is evidence of a deliberate effort to conceal non-compliance.
- This policy is not applicable if the operator or service provide fails to maintain an acceptable SMS or its agreed safety performance.
- This policy is not applicable if the operator or service provider fails to provide confidence in its means of hazard identification and safety risk management.
- This policy is not applicable if the operator or service provider is a recurrent violator. A recurrent violator is a violator who, in the **past one-year period** has had the same or closely related violations.

In such circumstances, the applicable penalties established in the Act will apply and the established enforcement procedures will be applicable.

2.6 Conflict of Interest

The CAAT Aviation Inspectors must take measures to prevent real, potential, or perceived conflicts of interest in accordance with the Code of Conduct specified in the regulation on the qualification, delegation, performance and oversight of competent official in accordance with the Act.

If it becomes apparent that there could be a possible conflict of interest during an investigation, the aviation inspector shall inform his or her respective Manager of Department and request to be removed from the case.

2.7 Handling of Complaints

Complaints by the Public or Civil Aviation Stakeholders, concerning the CAAT shall be recorded and passed to responsible department for response. Every complaint shall be responded to and the result shall be recorded.

2.8 Accessibility of Officials

CAAT Competent Officials and Aviation Inspectors will be accessible to the public to explain the Enforcement policy and procedure. Suggestions to improve this procedure are always welcome.

2.9 Amendment of the Aviation Enforcement Policy Manual

This Aviation Enforcement Policy and Procedure Manual will be amended as required. All amendments to this Manual shall be issued by Legal Department who is the Office of Primary Interest (OPI) for this Manual

CHAPTER 3 – RESPONSIBILITIES

3.1 Delegation of Authority

Only person with valid and current delegation to exercise powers issued by the Director under the specific provisions of Act may exercise the authorities. These authorities are delegated by the Director through the issuance of official credentials.

3.2 Responsibilities of the Delegate

The delegate is the decision-maker, and takes prime responsibility for the decisions whatever they may be. Although a delegate may be subject to general written directions regarding the 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. For example, a delegate cannot be directed to issue, or not to issue, a licence or certificate to a particular person. It is the delegate's personal judgement and belief that is relevant to the question of whether or not the grounds for the proposed action are sound.

3.3 Responsibilities of Technical and Operational Personnel

Without limiting the sorts of tasks which technical and operational personnel may be asked to perform in relation to variation, suspension or revocation action, it is the responsibility of technical and operational officers to

- a) Gather or receive the information and evidence, which supports a recommendation for an action;
- b) As necessary, seek advice and input from Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards, Manager of Legal Department or other respective Managers in relation to the conduct of the operator/person in question;
- c) Complete a non-compliance report and forward it to the appropriate Manager recommending a proposed course of action;
- d) Draft (in consultation with Legal Department) the relevant notice to the operator/person affected by the decision;
- e) Prepare for and attend any show cause conference taken up by the operator or person affected by the decision
- f) As necessary, assist Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Manager of Legal Department by providing information and advice.
- g) Serve or arrange for the service of the relevant notice to the person affected;
- h) Take any follow-up action that may be necessary (including the provision of technical and operational assistance to the Manager of Legal Department in any administrative law litigation).

3.4 Responsibilities of the Manager of Legal Department

It is the responsibility of the Director of Legal Department to

- a) Provide legal advice to officers and the delegate (Competent Official and Aviation Inspector) in relation to actual or proposed variation, suspension or revocation action, or any part of the process;
- b) Assist officers in the preparation of show cause' and decision notices, in accordance with regulations;
- c) Conduct, or arrange for the conduct of, administrative law litigation arising out of variation, suspension and revocation decisions,
- d) Keep Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department or other respective Managers advised of the progress and results of any criminal court or administrative proceedings, and
- e) Represent CAAT in any proceedings before the Court, where the CAATs decisions have been challenged.

3.5 Responsibilities of the Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards

All the Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and are the senior delegates and are responsible to:

- a) Ensure that their directorate is organised, staffed and equipped to perform its functions as required by the Act and regulations; and the Director;
- b) Amend the administration of the Inspectors in order to ensure their smooth and efficient functioning;
- c) Programme the operation of inspections per the guidelines laid down in inspectors manual;
- d) Supervise the activities of his or her Aviation Inspectors;
- e) Liaise with the operators or service providers to ensure smooth and efficient execution of the inspection programmes;
- f) Ensure that the activities of his or her Aviation inspections conform to rules and regulations laid down for the conduct of inspections.
- g) Submit periodic and other analytic reports to the Director of the results of the inspections
- h) Ensure that his or her Aviation Inspectors maintain the currency of their Credential Card, licences (if any) and carry out refresher training regularly
- i) Liaise with the other Directorate Departments of the CAAT and provide them with specialised advice on all operational manners;
- j) Advise the Director on all matters relevant to aviation safety and help in investigation of accidents/incidents involving aircraft ;

- k) Keep the Director informed of all-important activities of their Department
- l) Ensure that the objectives of the Inspections are met and that the system of inspection is optimised and institutionalised. Updating of the system to meet the changing situations is an imperative that must be pursued.

CHAPTER 4 – INSPECTION

4.1 Inspection – General

Inspection involves the examination of Thailand civil aviation documents (CAD), aircraft, cargo, 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 departments of CAAT. The purpose of inspection is to determine whether compliance with legislation, regulations and standards is being maintained. It is a part of the daily routine of a CAAT official/inspector and includes activities such as:

- (1) CAAT Flight Operations Inspectors conducting operator's inspections, audits and flight tests;
- (2) CAAT Personnel Licensing Inspectors conducting examinations and flight tests of pilot licence applicants and instructors and training organizations and CAAT Flight Operations inspectors performing inspections and audits of air operator;
- (3) CAAT Airworthiness Inspectors conducting audits and inspecting aircraft and maintenance organizations;
- (4) CAAT ANS inspectors conducting audits and inspections of ANS facilities and procedures.
- (5) CAAT Aerodrome inspectors inspecting the aerodrome facilities and procedures.
- (6) Any other person authorized.

4.2 Inspection Authority

The Act and Emergency Decree authorize the Director or his designate to conduct inspections for the purpose of enforcing the Act and regulations. It therefore authorizes designated Inspectors to inspect aircraft, operator facilities and aerodromes.

4.2.1 Entry for Inspection

An Official/Inspector's authority to enter into aircraft, hangar, training facilities, flight of aircraft and arrangements relating to operation of air services including ANS and aerodrome and the place for overhauling including repairs and examination of aircraft and equipment for the purpose of making inspections.

4.2.2 Inspection

For the purpose of inspections, inspection powers are derived from Section 15/25, Section 41/57, Section 41/119, Section 60/20 and Provisions in Chapter 8 of the Act, the Officials/Inspectors shall normally enter aircraft or premises with the owner, employee or other representative being present or giving consent. An Official/Inspector's authority to enter aircraft, aerodromes, facilities or premises to conduct inspections shall be provided to each inspector, in accordance to his need to exercise his/her delegated authority and shall be listed upon Competent officials' Identification and Inspector's Credential Card.

4.2.3 Production of Documents/Records

A Competent Official and Aviation Inspector's authority to demand the production of documents and records is derived from Section 65/1 and Section 67/4 of the Act and Section 37 of the Emergency Decree.

4.2.4 Obstruction

Any Person wilfully obstructing or impeding an Official/Inspector during an inspection shall contravene Section 67/3 of the Act and Section 138 of the Criminal Code B.E. 2499 (1956) as amended.

4.2.5 Entry to a Dwelling-house

If it is necessary to enter into a dwelling-house and land in the surrounding area of aerodrome or under air route in connection with any work of the CAAT. An official/inspector specified by the CAAT may, after giving prior notice to the person using and enjoying a house and land, may enter there. In order to avert any accident or to make necessary repairing of any instruments installed at such a house or land.

In this regard, Section 67/5 of the Act stated that –

“In the event that it is necessary for the purpose of inspection and regulating and oversight the implementation of this Act, the Competent Official and the Aviation Inspector may enter into dwelling house or specific private place after receiving consent from the occupant or having a court warrant.

In the operation under paragraph one, if any items are moved from the place which the search has done, the Competent Official and the Aviation Inspector must issue a receipt showing the items that have been moved to the owner or person controlling the place. And must bring such items returned as soon as possible after being used for the purpose of moving.

The Competent Official and the Aviation Inspector who performs the duties under this section may have an interpreter or other person as appropriate and necessary to provide assistance to the Competent Official and the Aviation Inspector.

4.2.6 Seizure of Evidence

Section 65, Section 65/1, Section 66, Section 67/4 and Section 67/5 of the Act which gives inspectors the power to seize anything found in any place entered for the purposes of inspection if they believe on reasonable grounds the thing 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.

4.2.6 Return of Evidence

Any item seized during an inspection or investigation shall be returned to its rightful owner as soon as practicable when continued retention is not required, unless the item is required during a comprehensive investigation. Upon conclusion of the Case Report, the item shall be returned to its rightful owner.

4.3 Safety Powers

The Competent Official and Aviation Inspector are delegated the authority to exercise the following safety powers when encountering a situation where there is an imminent concern for aviation safety:

(1) Delay the Departure of Aircraft

The authority for Delay the Departure of Aircraft is found in Section 67 of the Act. The Competent Official shall have the power to delay the departure of such Aircraft when there is violation of the provisions of the Act with respect to any Aircraft.

(2) Detention

The authority for detention is found in Section 67/7 and 67/8 of the Act. The Director and the Competent Official or the Aviation Inspector may detain any aircraft which they believe on reasonable grounds is unsafe or is likely to be operated in an unsafe manner, and take reasonable steps to ensure its continued detention. Once the grounds for detention (e.g. unsafe condition) have been removed, the aircraft must be released.

According to Section 67/7, the Competent Official or the Aviation Inspector shall have the power to prohibit the Owner or Aircraft Registrant, Air Operator, Or Crew Members of the aircraft not to operate the aircraft in situations of any reason or suspicion where the:

- (1) Aircraft may not be airworthy;
- (2) Crew Member may not be qualified or physically or mentally capable for the flight;
- (3) Operation of the Aircraft may cause imminent danger to persons or property on the ground.

In the proceedings under (1) (2) and (3) above, the Competent Official or the Aviation Inspector may carry out the steps that necessary to detain the aircraft or prevent the Crew Member from operating the flight in accordance with the rules and procedures prescribed by the Director.

For Section 67/8, in the event that there is a reasonable grounds to believe that any aircraft is intended or likely to be flown under circumstances where the flight would involve a contravention of the Act or any regulations, requirements, notifications, rules, orders, or administrative orders issued under the Act or any other Law; or the flight shall cause imminent danger to persons in the aircraft or to persons or property on the ground, the Director may order to detain that aircraft, or in the case of necessity may also close the services of any facilities for such aircraft.

When the Director is satisfied that the Act, regulations, requirements, notifications, rules, orders, or administrative orders issued under this Act or any other Law, is complied with, the Director shall have an order to cancel such an aircraft detention order or a closure of facilities services order.

(3) Suspension of Civil Aviation Document (CAD)

On the basis of report made available from the inspection, pursuant to specific provisions of the Act and regulations, the Director may suspend a CAD on the grounds that an immediate threat to aviation safety 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 specific provisions of the Act and regulations. Once the Director has made a decision to suspend a CAD, he must notify CAD holder of his decision in writing. Suspension of a CAD shall come into effect immediately and remains in effect until such time as the aviation threat is removed. The CAD holder may appeal within 15 days of suspension, to the Director in accordance with the Act on Administrative Procedure B.E. 2539 (1996).

When a document is suspended, details of the suspension should be forwarded to the appropriate functional authority for inclusion in the document holder's file and for consideration by the functional authority when contemplating re-instatement of the CAD.

4.4 Inspection Procedure

When conducting routine inspections, the Competent Official and Aviation Inspector shall observe the following procedures:

(1) the Competent Official and Aviation Inspector shall not enter aircraft, ANS facilities, Aerodrome or premises which are locked or where the owner/operator or appointed representative is not present;

(2) a Competent Official or an Aviation Inspector should be conducted at a time that minimizes the inconvenience to flight crew, ATC, owner/operator and the travelling public;

(3) the Competent Official shall use an identification card and Aviation Inspector shall use a credentials card for personal identification;

(4) the flight crew, ATC and owner/operator of an aircraft or facilities should be informed that an inspection is being conducted;

(5) a document produced for the purpose of inspection should be kept no longer than is necessary to determine its validity;

(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;

(7) Competent Official or Aviation Inspector may seize evidence with respect to a contravention discovered during the course of a routine inspection. See Section 4.5 below;

(8) If an unsafe situation is discovered, the aircraft representative shall be informed and the inspector shall decide whether or not immediate detention of the aircraft is required. See Section 4.6 below;

(9) In the event of any obstruction to an inspection, the Competent Official or Aviation Inspector should politely inform the individual that a charge could be laid under Section 67/3 of the Act and Section 138 of the Criminal Code B.E. 2499 (1956) as amended. for the offence of obstructing an inspection. Should the individual continue to obstruct the inspection, the inspection should be abandoned and enforcement assistance sought for the laying of charges under Section 67/3 of the Act and Section 138 of the Criminal Code B.E. 2499 (1956) as amended.;

(10) By virtue of Section 66, Section 67/4 and Section 67/5 of the ACT, where Competent Official and Aviation Inspector believes on reasonable and probable grounds that entry, search and seizure will be required to obtain evidence, the matter must be referred to the CAAT for conduct of an investigation. Under such circumstances, the inspector ceases the act of inspection and commences the act of investigation (see Chapter 8); and

(11) Competent Officials and Aviation Inspectors should be completely documented with notes including dates and times.

4.5 Seizure, Retention and Return of Evidence

In accordance with Section 66, Section 67/4 and Section 67/5 of the ACT, where evidence is seized, the inspector shall ensure:

- (1) the holder is given a receipt or written acknowledgement;
- (2) the evidence is clearly marked in an identifiable manner;
- (3) reasonable care is taken to preserve and protect the evidence;
- (4) continuity of possession of evidence can be assured;
- (5) Where an Aircraft Journey Log or ATC Logbook is seized, a Temporary Logbook may 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 official/inspector or the investigator is acceptable. Before making a photocopy, the original should be marked in a uniquely identifiable manner to preclude alteration or substitution; and

(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 must be returned within 15 days of seizure if:

- a) there is no dispute as to who is lawfully entitled to it;
- b) return is not likely to affect aviation safety; and
- c) it is no longer required.

4.6 Detention and Return of Aircraft

In accordance with Section 67/7 and 67/8 of the Act. When Competence Officials or Aviation Inspectors contemplate the detention of an aircraft they must, if possible, introduce themselves to the pilot or owner and specify the unsafe condition or unsafe operation which they believe exists or is likely to exist. They should tactfully try to obtain voluntary compliance in correcting the situation. If they are unsuccessful, they should:

(1) again, advise the pilot or owner about the unsafe condition or operation and the consequences of failing to abide by the inspector's advice (e.g. detention and/or enforcement action);

(2) where the pilot or owner is unavailable or indicates an unwillingness to comply with the official/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 condition or operation;

(3) if necessary, restrain the movements of the aircraft:

(a) by requesting ATS deny taxi and take-off clearances;

(b) by blocking it with vehicles;

(c) by attaching it to an immovable object; or,

(d) 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.

Whenever possible, and in accordance with Section 16/7 paragraph two and its related Director 's Notification, 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 situation. However, if no other measures have been or are likely to be effective in alleviating the unsafe condition or operation, the aircraft may be taken into the custody of the CAAT. In such cases, all reasonable care shall be taken to preserve and protect the aircraft in the condition in which it was first acquired. 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 manner. Details concerning the detention should be forwarded to the appropriate supervisor for a decision on the release of the aircraft from detention.

CHAPTER 5 – SURVEILLANCE OPERATIONS

5.1 Surveillance

The purpose of surveillance is to provide a regulatory presence to promote compliance and reveal contraventions the Act and regulations. 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 can be expected. These objectives can best be achieved by CAAT personnel participating in structured surveillance activities. Surveillance may either be routine or special-purpose.

5.2 Field Operations

(1) Routine Surveillance

In the performance of their normal duties in the aviation community, the Competence Official or the Aviation 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 identical to those listed in Section 4.1 of this manual.

Routine surveillance, which includes audits, base inspections, CAD renewal inspections and ramp checks, is conducted in the normal course of the CAAT Competence Official or Aviation Inspector's duties of monitoring day-to-day aviation activity. When contraventions of the Act or regulations are detected, inspectors are responsible for completing a Detection Notice for submission to their respective Manager of Department. These forms may reveal problems, trends or threats to aviation safety. Accordingly, this information can often provide the impetus for planned surveillance.

(2) Discreet Surveillance

Discreet Surveillance is a routine surveillance where a Competence Official or an Aviation Inspector does with an identification card or a credentials card surveillance as an Aviation Inspector. No Special authorization is required for this type of surveillance.

(3) Planned Surveillance

Planned surveillance is directed at specific areas, events and activities by Competences Official or an Aviation Inspectors.

(4) Special Purpose Surveillance

Special purpose surveillance is directed at specific areas, events and activities by the Aviation Inspectors. Most surveillance done by Inspectors is of an overt nature; that is,

undisguised and designed to deter regulatory infractions and to encourage voluntary compliance through a visible presence. It is also designed to detect violations.

5.3 Objectives

The following objectives may be considered when planning surveillance activities:

- (1) the promotion of compliance by establishment of regulator presence;
- (2) the conduct of investigations;
- (3) the detection of contraventions;
- (4) promotional and educational activities;
- (5) liaison with detection sources;
- (6) information gathering; and
- (7) targeted surveillance.

5.4 Planning Responsibility

The Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Department are responsible for the development and administration of the surveillance plan in their area of responsibilities and publish in the website and or display at office notice board after getting approval from the Director.

5.5 Implementation

The implementation of surveillance plan is concerned with satisfying the CAAT objectives of regulatory presence, investigation, detection of contraventions, compliance promotion and education.

(1) Presence

Surveillance should be carried out whenever and wherever aviation activity are most likely, including weekend's morning and evenings.

(a) It should be ensured of that each surveillance team is composed of inspectors whose specialty is pertinent to the type of surveillance activity.

(b) It should be ensured that each surveillance team is qualified and is properly briefed for the operation.

(2) Surveillance

Surveillance should generally be carried out overtly. By introducing themselves to the public, officials/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 (See Chapter 9).

(3) 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

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

5.7 Procedure

Extensive notes should be kept of all observations. Where appropriate, photographs should also be taken. Officials/Inspectors should be prepared to use authority pursuant to Section 15/25, Section 41/57, Section 41/119, Section 60/20 and Provisions in Chapter 8 of the Act as applicable.

Watch for any regulatory contraventions and where possible prevent a contravention by dealing with the cause beforehand. Usually, a friendly approach, emphasizing the safety element, can bring about compliance with the regulations.

5.8 Reporting

At the conclusion of the surveillance activity, a detailed report is normally made to the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Manager Aviation Security and Facilitation Standards Department. If contraventions of the regulations have been observed, the report shall be forwarded to the Director and must include any evidence of contraventions that has been gathered as well as an account of all actions taken (see Chapter 6 for detection procedures).

CHAPTER 6 – DETECTION

6.1 Introduction

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 Competent Official and Aviation Inspector must take action on observing a contravention or when apprised of one. At the very least, an official/inspector should carry out the initial violation process and forward it without delay to the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department 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 counselling, the initial violation process provides the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Department with information which helps to shape the Aviation Enforcement Program.

6.2 Initial Detection of Violation

In all cases where an official/inspector detects a contravention or where information about a possible contravention is received, the official/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 Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department as soon as possible along with any notes or evidence such as photos, logs, tapes, etc.

The decision to conclude the incident with an oral counselling or to refer the matter for further investigation is entirely at the discretion of the official/inspector completing the form.

If the contravention is considered minor, the official/inspector may opt for oral counselling.

If the contravention is of a more serious nature, the official/inspector must refer the incident without delay to the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department for further action. The respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department will then determine if a comprehensive investigation should be carried out.

6.2.1 Detection

(1) Oral Counselling

Oral counselling provides the CAD holder with immediate counselling on the necessity for compliance. It is an option for officials/inspectors when the imposition of a sanction is not considered necessary and when all the following conditions are satisfied:

- a) The contravention is minor and inadvertent;
- b) There is no direct flight safety hazard even though the violation is safety-related;
- c) The CAD holder has no record of a similar type of violation and has a compliant attitude;
- d) The CAD holder is not disputing the allegation.

Refer to the factors affecting choice of sanction in Chapter 12 for guidance on determining whether or not oral counselling is appropriate.

Officials/Inspectors should assess all aspects of the contravention and the attitude of the CAD holder to determine whether oral counselling will secure future compliance. Oral counselling may be most appropriate in cases of ignorance or misinterpretation of the law, provided aviation safety was not jeopardized, i.e. a minor contravention having little or no impact on safety or where there was no indication of a wilful act.

This type of deterrent action does not become a part of the CAD holder's record. However, a completed copy of the Detection Notice is required to ensure that the event is recorded in the Enforcement Data Base.

(2) Further investigation

If in doubt about the appropriate action to take in a given circumstance, the officials/inspector should refer the matter to the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department for further investigation.

6.3 Contraventions of Dangerous Goods Regulations

Within CAAT, all officials/inspectors are responsible for promoting compliance with and detecting contraventions of the law and regulations on Transportation of Dangerous Goods by Air. Because of the possible hazards involved in the transport of dangerous goods, all inspectors, upon detection or receipt of a reported violation, shall apprise Manager of Flight Standards Department of the situation.

Officials/Inspectors should have a basic familiarization of how to identify dangerous goods and must not place themselves in positions that might jeopardize their safety.

6.4 Inspectors Flying as Passengers

If officials/inspectors, while flying as passengers on an airline, detect a contravention which, in their judgement, must be brought to the attention of the flight crew (e.g. a major disregard of the Act and regulations), they shall contact the pilot-in-command after the flight has completed. 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 form shall be forwarded without delay to the Manager of Flight Standards Department. It shall contain sufficient detail including all available evidence to allow follow-up action.

The policy of post-flight notification does not apply where the contravention compromises flight safety. An example of this would be 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.

6.5 Audit or Inspection Findings

(1) Safety Findings

The CAAT shall have a system to analyse findings of their safety significance as part of the safety plan.

A level 1 finding shall be issued by the CAAT when any significant non-compliance is detected with the applicable laws and regulations, with the organisation's procedures and manuals or with the terms of an approval or certificate or with the content of a declaration which lowers safety or seriously hazards flight safety.

The level 1 findings shall include:

- a) failure to give the Competence Official or Aviation Safety Inspectors access to the organisation's facilities as defined in the Act or regulations during normal operating hours and after two written requests;
- b) obtaining or maintaining the validity of the organisation certificate by falsification of submitted documentary evidence;
- c) evidence of malpractice or fraudulent use of the organisation certificate; and
- d) the lack of an accountable manager.

In the case of level 1 findings the CAAT 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 organisation.

In the case of level 2 findings, the CAAT authority shall:

- a) grant the organisation a corrective action implementation period appropriate to the nature of the finding that in any case initially shall not be more than **30 days**. At the end of

this period, and subject to the nature of the finding, the competent authority may extend the **30 days** period subject to a satisfactory corrective action plan agreed by the CAAT; and

b) 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.

Where an organisation fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the CAAT, 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.

The CAAT 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.

Without prejudice to any additional enforcement measures, when a foreign CAA identifies any non-compliance with the applicable requirements of laws and regulations by an organisation certified by or declaring its activity to the foreign CAA, it shall inform CAAT and provide an indication of the level of finding.

6.6 Findings and Enforcement Measures

If, during oversight or by any other means, evidence is found by the CAAT responsible for oversight in accordance with laws and regulations that shows a non-compliance with the applicable requirements by a person holding a CAD issued in accordance with laws and regulations, the CAAT shall raise a finding, record it and communicate it in writing to the CAD holder.

When such finding is raised, the CAAT shall carry out an investigation. If the finding is confirmed, it shall:

(1) limit, suspend or revoke the license, certificate, or rating, when a safety issue has been identified; and

(2) take any further enforcement measures necessary to prevent the continuation of the non-compliance.

Where applicable, the CAAT shall inform the person or organisation that issued the medical certificate.

Without prejudice to any additional enforcement measures, when a foreign CAA acting under the provisions of laws and regulations finds evidence showing a non-compliance with the applicable laws, regulations and requirements by a person holding a CAD issued by the foreign CAA, it shall inform CAAT.

If, during oversight or by any other means, evidence is found showing a non-compliance with the applicable laws, regulations and requirements by a person and not holding a CAD issued

in accordance with that laws, regulations and requirements, the CAAT shall take any enforcement measures necessary to prevent the continuation of that non-compliance.

6.7 Expanded Description of the Initial Violation Process

The purpose of the initial violation process is to gather information in a systematic and thorough manner when it is suspected that the provisions of the Act and regulations has been violated by an act or omission that warrants further investigation. All officials/inspectors are responsible for gathering pertinent information when they detect a violation of the Act and regulations and for recording that information, preferably in the Initial Violation Process Form. This initial process of collecting information concerning a possible violation is often the only opportunity to preserve perishable evidence.

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:

- (1) fill out the Initial Violation records;
- (2) record all possible contraventions (even borderline offences);
- (3) record date, time and location of the contravention;
- (4) record the identification of the aircraft and the names, addresses and telephone numbers of all persons involved;
- (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) take photographs of all objects that cannot be secured or moved;
- (7) take notes on the events immediately preceding and following the contravention;
- (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);
- (9) approach any person you suspect of committing a contravention and seek their account of the occurrence;
- (10) contact the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department for assistance or direction as required.

NOTE: It is important to keep an accurate set of notes detailing in chronological order your actions with appropriate location, dates and times.

Upon detection of a violation and the completion of the Initial Violation Process, an official/inspector should forward the same to respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Department who will 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 LEGISTRATIVE PROVISIONS

7.1 Introduction

This chapter provides a procedure for analysing 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 Construction of Legislative Provisions

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

a) Enabling provisions are those which confer power on persons to make some other type of standard or policy. Some enabling provisions in the Act and regulations are those which give powers to make regulations, orders and publications.

b) Administrative provisions confer a power or impose a duty on the CAAT; for example, to issue licenses. They may provide criteria used in discharging these powers or duties. Although these provisions are public notice of what the Director can do, their purpose is to provide a statutory basis for administrative procedures or actions.

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

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

The legislative provisions of interest in this chapter are the “offence creating provisions” and are often referred to as safety regulations. They are easy to recognize as they contain words such as, “**No person shall**”, “**an operator shall**”, “**and the pilot-in-command shall**”.

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 Identify Possible Violations

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 analysed. A timely analysis will indicate what evidence is available and what further evidence maybe required; it could also determine that there is, in fact, no violation.

7.4 Analysis of Offence Creating Legislative Provisions for Interpretation

Analysis for interpretation consists of the following steps:

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

7.5 Analysis of Offence Creating Legislative Provisions for Evidence

Where a contravention is suspected, the pertinent legislative provisions should be divided into elements and analysed 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. Standard forms of evidence are used to establish the facts concerning common elements. Special forms of evidence may be needed to establish the facts concerning uncommon elements.

7.6 Standards forms of Evidence

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.

7.8 Special forms of Evidence

Special forms of evidence include voice-prints, x-rays, magnaflux, dye check, etc.

7.9 Sample Analysis

The matrix on the following pages illustrates a method of analysing the common elements of many legislative provisions and some uncommon elements for relevant evidence.

7.9.1 Illustrative Analysis of Common Elements

Elements	Facts to be Established	Evidence
<p>#1 [no person]</p> <ul style="list-style-type: none"> A common element and a core element Sets out prohibition applying to all persons 	<p>What person performed the prohibited act</p>	<p>“standard forms” to identify the person: log book, witnesses</p> <p>For a corporation, refer to Aircraft Registry Division- Airworthiness Department for legal name; obtain Certificate of Incorporation from Registrar of Companies</p>
<p>#2 [shall fly]</p> <ul style="list-style-type: none"> Core element Describes the prohibited act 	<p>The person acted as pilot-in-command, co-pilot, flight navigator or flight engineer; when and where.</p> <p>Note: The duties of these “flight crew members” are not defined. Conclusions must be drawn from expert knowledge</p>	<p>“standard forms” – log book, witnesses</p>
<p>#3 [attempt to fly]</p> <ul style="list-style-type: none"> Core element Describes the prohibited act 	<p>The person intended to fly or made an endeavour to fly; when and where.</p>	<p>Evidence of overt acts showing intent or endeavour to fly, e.g. filing of flight plan, request for clearance</p>
<p>#4 [aircraft] [no aircraft]</p> <ul style="list-style-type: none"> Core or qualifying element 	<p>The object referred to was an aircraft defined in the Act. The aircraft must be identified.</p>	<p>“standard forms” – log book, C of R/ C of A, witnesses as required by the Act or regulations</p> <p>Request that certificate indicate status on date of offence</p>
<p>[the pilot-in-command]</p> <ul style="list-style-type: none"> Defined in the Act Usually a core element 	<p>The suspected violator was the “pilot-in-command”</p>	<p>“standard forms” – log book, witnesses</p>
<p>[operate]</p> <ul style="list-style-type: none"> Core element “to work or use a machine” (dictionary reference) 	<p>The act of operating was performed by the suspected offender.</p> <p>With respect to an aircraft, “operate” includes “fly” as a pilot</p>	<p>“standard forms” – log book, witnesses, flight plans, ATS record</p>

7.9.2 Illustrative Analysis of Uncommon Elements

Uncommon Elements	Facts to be Established	Evidence
<p>#5 [unless a flight permit issued under the Act and regulations is in effect in respect of the aircraft]</p> <ul style="list-style-type: none"> • Qualifying element 	<p>a. no such flight permit has been issued b. if issued, flight authority was not in effect at the time</p>	<p>For fact a. use C of A/C of R under the Act and regulations For fact b. show that the standard for a flight permit to be in effect was not met at the time</p>
<p>#6 [or unless a flight permit issued under the laws of the country in which the aircraft is registered is in effect in respect of the aircraft]</p> <ul style="list-style-type: none"> • Qualifying element 	<p>a. no such flight permit has been issued b. if issued, flight permit was not in effect at the time</p>	<p>For fact a. affidavit from the proper authority of the country For fact b. same as a. and expert testimony</p>
<p>#7 [and unless all conditions upon which the certificate or permit was issued have been complied with]</p> <ul style="list-style-type: none"> • Qualifying elements 	<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 permit certified by the Director as required under the Act and regulations</p>

7.9.3 Analysis Matrix – an example

Elements	Facts to be Established	Evidence
<p>#1 [no person]</p> <ul style="list-style-type: none"> A common element and a core element The prohibition applies to all persons 	What person performed the prohibited act	“standard forms” to identify the person
<p>#2 [shall operate... in flight]</p> <ul style="list-style-type: none"> A common element and a core element Specifies the prohibited action 	A flight took place	“standard forms” – journey log, eye witnesses, ATS record, etc – showing that the aircraft was operated in flight
<p>#3 [an aircraft]</p> <ul style="list-style-type: none"> A common element and a core element Augments the prohibited action 	The object referred to was an aircraft as defined in the Act and regulations. The specific aircraft must be identified.	“standard forms” – journey log, C of R, eye witnesses – to identify the particular aircraft
<p>#4 [unless a flight authority is in effect in respect of the aircraft]</p> <ul style="list-style-type: none"> A common element and a qualifying element 	<p>a. flight authority was not issued</p> <p>b. flight authority was not in effect</p>	<p>a. C of A/ C of R as required under the Act and regulations – request that certificate indicate status of aircraft on date of offence</p> <p>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]</p> <ul style="list-style-type: none"> An uncommon element and a qualifying element 	<p>c. the manner of operation that was not in accordance with the flight authority</p> <p>d. a manner of operation prescribed by the flight authority that was not carried out</p>	“standard forms” – journey log, eye witness, flight plan – showing deviance from conditions of the flight authority
<p>#6 [and unless the flight authority is carried on board the aircraft subject to subsection (3.1.1) and (3.2.3)]</p> <ul style="list-style-type: none"> A common element and a qualifying element 	<p>a. flight authority was not carried on board the aircraft</p> <p>b. show that subsections (3.1.1) and (3.2.3) do not apply (the subsections are not addressed in this example)</p>	“standard forms” – eyewitness – showing the flight authority was not carried on board the aircraft

CHAPTER 8- INVESTIGATIONS

8.1 Introduction

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 will depend on its thoroughness and adequacy. In order for investigators to conduct thorough investigations from the initial complaint through to the case report, it is imperative that they have a thorough understanding of their delegation of authority and a sound knowledge of their inspection and investigative powers. Competent Officials/Aviation Inspectors must also know what constitutes relevant evidence if CAAT is to bring an action against an alleged offender because the only means available to prove that the violation has taken place on the basis of obtained evidence.

8.2 Priorities for Investigation

Priority shall be given to violations received from any Government request. For all other violations the Director of relevant Safety Department shall assign an investigation priority level based on safety impact.

8.3 Cockpit Voice Recorder (CVR)/Flight Data Recorder (FDR)

Their use is primarily intended for aircraft accident investigations to assist in determining the cause of accidents and incidents, unless the appropriate authority for the administration of justice in Thailand determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigations.

8.4 No Investigation Conducted (NIC)

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 Thai agency; statutory limitation; low safety item; insufficient resources; etc. Nevertheless, the relevant information should be recorded for the type of action taken.

8.5 The rights of the alleged offender

When the inspectors detected any alleged violations, he/she shall report the alleged violations to their respective Manager. The respective Manager shall designate the inspector to conduct comprehensive investigation and the inspector is responsible for investigate the fact and places as well as collect the relevant evidence to determine if there is any violation of the provision of Act.

A designated inspector shall inform an alleged offender the detail of the offences and advise them the rights to defence the allegation with supporting evidences before concluding a case report to their respective Director of Department.

8.6 Defences – Necessity, Due Diligence, Officially Induced Error

If early in an investigation, facts are uncovered which point to the likelihood that an alleged offender could successfully argue the actions taken 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.

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 Director of relevant Safety Department should carefully examine the facts to determine whether all of the following conditions apply:

(1) the situation was so urgent and the dangers from inaction were so imminent that it was unreasonable to delay any action;

(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 regulations; and

(3) the hazards to flight safety 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).

In addition, the Director of relevant Safety Department 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 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.

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).

The Defence of Due Diligence

CAAT documents and manuals provide for the “defence of due diligence” in an alleged contravention of the Act and Regulations. 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.

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.

Application of Defences

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 Manager of relevant Safety Department 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 investigator and the appropriate Safety Department Manager. If the alleged offender insists the defences are valid, the situation becomes a matter for the Director or the relevant authority to decide.

8.7 Comprehensive Investigations

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:

- (1) identify all provisions that were possibly contravened;
- (2) analyse the regulations allegedly contravened (see Chapter 7);
- (3) determine the evidence necessary to prove each element of a violation;
- (4) plan and initiate the steps necessary to obtain such evidence; e.g. interviews (see 8.8), resource personnel, expert witnesses, log books, records, search warrant, etc.;
- (5) obtain information from the alleged offender. The alleged offender must be contacted in person, by telephone or by mail and be advised that:
 - (a) an investigation is in progress; and,
 - (b) there is an opportunity for the document holder to offer voluntary information.

NOTE 1: *It is mandatory to advise the alleged offender that an investigation is in progress. The case file must be annotated to record the notification. An alleged offender may be able to provide evidence valuable to the investigation. Under no circumstances should the Notice of Assessment of Criminal Penalty (fine or*

imprisonment) or the Notice of Suspension be the alleged offender's first indication of an enforcement investigation.

NOTE 2: A warning shall be given advising the alleged offender that this information may be used as evidence.

(6) co-ordinate the investigation to prevent overlap or conflict with other personnel;

(7) Establish the cause of the violation. e.g. weather, navigation hazard, equipment, deliberate, inadvertent;

(8) record the relevant information, including a narrative of the facts and circumstances of the event which lead to the alleged violation; and

(9) Prepare a personnel or company enforcement case file incorporating the results of the foregoing activities and including the Initial Violation Process Form, a legible activity log and a case report.

8.8 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 to 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>

8.9 Co-ordination between CAAT Divisions and Outside Agencies

Co-ordination between the various CAAT Divisions, the Royal Thai Police and other external organizations, concerned with Aviation Safety is encouraged, in order to maintain technical accuracy and perspective and to expedite the collection of relevant facts.

8.10 Disclosure of Information

The CAAT Civil Aviation Policy is one of full disclosure to the CAD holder or his/her representative. The Concerned Department and the Legal Department shall disclose all evidence that may assist the CAD holder, even if the evidence will not be used in any proceedings. However, file notes containing personal opinions as well as internal correspondence outlining how to proceed with sanctions shall not be disclosed.

The purpose of the full disclosure is as follows:

- (1) To ensure the CAD holder knows the case to be met and is able to make full answer and defence;
- (2) To encourage the resolution of facts at issue, and
- (3) To encourage the resolution of the case prior to the hearing.

8.11 Full Disclosure

Full disclosure means that the CAD holder will be given at least the following information, as relevant to the case:

Particulars of the circumstances of the case;

- (1) Copies of relevant written statements (these may include witness statements, investigative notes and summaries)
- (2) An opportunity to examine electronic statements and/or other medium such as air traffic control tapes;
- (3) Particulars of the CAD holder's enforcement record, if applicable;
- (4) Copies of relevant documents and photographs that the Investigator intends to introduce into evidence during a hearing;
- (5) A copy of the notice of suspension of the CAD;
- (6) Particulars of relevant information intended to be relied upon at the hearing and any information known to the Investigator that the CAD holder may use to impeach the credibility of a CAAT witness in respect of the facts at issue in the case;
- (7) If applicable, a copy of the flow chart relating to an airworthiness matter; and
- (8) The names of witnesses, their employment and their address, unless there is evidence to indicate that the witness will be harassed or intimidated prior to the hearing. The witness should be informed of the action, and inquiries should be made whether there is any problem anticipated.

The information that is disclosed should be sent to the CAD holder by registered mail or courier.

8.12 Exceptions to full Disclosure

Certain information that is related to items of the public interest may be exempt from the disclosure policy. This information includes but is not limited to the following:

- (1) Information concerning a confidential informant, an ongoing investigation, or investigative techniques;
- (2) Information that may be considered confidential by the Government of the Thailand;

(3) Information that cannot lawfully be disclosed or that would be injurious to international relations, national defence or security if disclosed.

8.13 Medical and Optometric Information

Medical information provided by a CAD holder is confidential and shall only be disclosed with the permission of the CAD holder, except that the information may be released to the court, by direction of a judge; and it may also be used as evidence in an investigation by the CAAT.

8.14 Electronic Recordings of Interviews and Conversations

Covert recording of Interviews and conversations is not authorized. A witness, alleged offender or CAD holder must consent to a recording being made. A recorded telephone conversation with a witness or CAD holder may be used as evidence in circumstances where a personal interview cannot be arranged.

8.15 Cockpit Voice Recorder and Flight Data Recorder

Cockpit voice recorder and flight data recorder information shall not be used in any enforcement matters.

8.16 ATS Data

Recordings of ATS radio communications, transcripts of the recordings and Radar Data Examination Records (CDRS) may be used in any proceedings but shall not be used in surveillance or to detect contraventions.

8.17 Cases with Certification Implications

Where Thai Air Operators are involved in contraventions that may have certification implications, such as AOC, AMO, AMD, etc., the Legal Department shall consult with responsible Department concerning any possible sanction.

8.18 Case Closure – No Further Action (NFA)

A case should terminate with no further action if:

- (1) the alleged offender's identity cannot be ascertained;
- (2) the evidence does not provide reasonable grounds to believe the violation took place;
- (3) an uncorrectable technical or other flaw in the case precludes further action;
- (4) an exemption had been granted which negated the contraventions; or
- (5) a defence of necessity, due diligence or officially induced error is established.

Enforcement correspondence relating to a case in which no further action was taken is recorded but the case shall not be considered a contravention.

8.19 Enforcement Panel

Competence Official/Aviation Inspector shall take necessary action on the spot during the inspection. For minor offences, the administrative procedures like oral counselling, remedial training or monetary penalty may be prescribed by the investigator or inspector as the case may be. However, if the risk associated with the offence is comparatively higher posing the hazard or could pose hazard to the safety of aircraft, its occupants and public and property on ground, the offence should be considered as a serious offence.

Enforcement actions for serious offences and safety violations may include suspension and cancellation of aviation documents on the recommendation of an enforcement panel formed by Director General. The enforcement action will be implemented by the appropriate Safety Department after approval from Director General.

Conditions for setting up of enforcement panel

The enforcement panel will be set up for following conditions.

(a) The act committed has direct bearing with the safety of aircraft, occupants and the general public

(b) Previous enforcement action like oral counselling, monetary penalty and remedial training has not prevented the recurrence of similar offence; and

(c) The evidence indicate that it was a deliberate violation

Composition of panel:

The panel will be constituted as below:

Manager of the concerned department or Head of concerned division or designee

Member/Coordinator

Subject matter inspector(s) of concerned department(s)

Member

Legal Officer as required

Member

The panel may take services of other experts including from other safety departments as required depending on the complexity of the event. For example: If the offense is related with flight operations, the Manager of flight operations will lead the panel while the lead will be taken by the Manager airworthiness if the offence is related with airworthiness.

8.20 Restriction in use of privileges of aviation documents

The concerned safety department may instruct the service provider to keep the individual and organization holding the civil aviation document not to utilize the privileges of the documents until such time as it may be deemed necessary for the purpose of completing the investigation related with any occurrences or breach of applicable rules and regulations.

8.21 Suspension of CAD

The Director may suspend the CAD based on the recommendation of enforcement panel. The offender will be given an opportunity to clarify his or her position why the civil aviation documents should not be suspended in the interest of safety. If the justification is not satisfactory then the civil aviation document may be suspended by a decision of Director with recommendation from the panel. However, final decision regarding the suspension of the civil aviation documents rests with the Director.

8.22 Revocation of CAD

The CAD will be revoked in the interest of safety with due consideration of following factors:

1. Repetitive violations amounting to enforcement action of suspension of civil aviation document. The decision will be taken in case to case basis depending on the severity of violations.
2. Gross negligence or wilful violation endangering the safety of aircraft, occupant and general public.

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 safety. If the justification is not satisfactory then the civil aviation document may be revoked by a decision of the Director General with recommendation from the panel. However, final decision regarding the cancellation/revocation of the CAD rests with the Director.

8.23 Step by step procedure for enforcement action in the event of an offence

1. The contravention is reported to relevant safety department.
2. The event is investigated by the inspector to determine if it constitutes immediate threat to the safety of the occupants, aircraft and general public.
3. If the inspector has enough reason to suspect that the use of the privileges attached with the CAD poses danger to the safety of the occupants, aircraft and general public, an immediate instruction will be issued not to exercise the privileges of civil aviation documents.
4. If such instructions are not followed by the holder of CAD, alternate means can be used like advising the air traffic unit not to permit to take off aircraft, etc.
5. Such instruction may be issued by the respective safety inspector.
6. After obtaining complete report from the inspector on the event, if it is recommended to investigate further for the enforcement purposes in serious offences, an enforcement panel will be formed by the Director to review the case and recommend a penalty appropriate to the identified risk to safety.
7. Normally, period of restriction on privileges associated with aviation document will not be more than 30 days from date of first instruction from the inspector or investigator.
8. The panel may, depending on the severity of offence, recommend Director to prolong the duration of such restriction.
9. In the event of prolonged investigation, instruction can be issued not to use the privileges of CAD. Such instruction can be issued by the concerned inspector.

10. Depending on the severity of the offences, the enforcement panel will recommend to the Director the prescribed penalty including but not limited to the suspension of civil aviation document for specified time frame or the cancellation of such documents.

11. The offender will be notified of the decision of CAAT by the respective Safety Department with respect to the penalty imposed in relation to the offence committed.

12. If the CAD is cancelled, the offender can re-apply to obtain the same by fulfilling the all relevant requirement of CAAT, unless otherwise indicated in the CAAT's decision.

13. 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.

14. The enforcement data will be updated and maintained by the relevant Safety Department unless the case is concluded as not requiring further action. In the latter case, only the investigation file will be kept and no record will appear in the document holder file.

CHAPTER 9- COVERT OPERATIONS

9.1 Introduction

Most surveillance done by CAAT 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 CAAT official.

9.2 Covert Operations Policy

Covert operations may be conducted in order to gather evidence of continuing wilful violations of the aviation safety regulations. Covert operations shall be conducted only when a threat to aviation safety exists and when normal investigative means have been ineffective or are likely to be ineffective to stop the unsafe/insecure activity.

The decision to conduct a covert operation shall be made by the Director on the advice of the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Department. Should the Director be satisfied that a need exists for inspectors to conduct a covert operation, the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department will be granted the authority by the Director.

9.3 Definitions

See chapter 5 for definitions of surveillance activities.

"Criminal Activity" - is any act that is illegal under the *Criminal Code* of Thailand and is clearly outside the scope of responsibility of CAAT

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

"Third Party Agents" - are persons employed specifically for the purposes of a covert operation excluding police officers, other agency personnel or Aviation Inspectors.

9.4 Principles of Covert Operations

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

- (1) all covert operations shall be approved by the Director;
- (2) respective Managers shall be responsible for the conduct of covert operations in their regions;
- (3) the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Department shall ensure adequate command, control and communications are exercised during each operation;

(4) where CAAT contemplates involvement in a joint covert operation, the agency in charge of the operation will be identified prior to the start of the operation.

(5) CAAT 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;

(6) during the planning stage of a joint covert operation, a contingency plan shall be developed that will permit Aviation Inspectors to withdraw from active participation in the operation if there is a likelihood that the inspector's personal safety may be jeopardized;

(7) no inspector shall obtain employment in an aviation company for the purpose of gaining access to information or evidence otherwise unavailable; care must be taken to ensure that the associated investigation is not construed as entrapment; and

(8) the respective Manager of Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Department shall ensure inspectors are thoroughly briefed for the covert operation and are aware of the guidelines for inspectors.

9.5 Guidelines for Inspectors

Inspectors engaged in covert operations shall be bound by the following guidelines:

(1) in no case shall an inspector counsel or facilitate the commission of an offence;

(2) if other illegal acts are detected during an operation, the appropriate enforcement agency shall be notified;

(3) if activity that is likely to place an inspector in physical danger is detected, the operation shall be abandoned rather than place 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;

(4) inspectors conducting an operation are to respect the rights of individuals;

(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 of the flight.

CHAPTER 10- SPECIAL INVESTIGATIVE PROCEDURES

10.1 Contraventions by Military Aircraft

The ACT and Regulations do not apply to:

- (1) Thai Military aircraft operating under the authority of the Minister of Defence; and
- (2) foreign military aircraft.

The CAAT shall forward a detection report to Thai Army Headquarters for any incident involving Thai's military aircraft or for any incident involving foreign military aircraft operating in Thailand.

10.2 Contraventions by Thai Aviation service providers

10.2.1 Contraventions Detected during and Audit or Base Inspection

When audit or inspection team members detect an apparent contravention of the regulations, they shall follow the initial violation process including the seizure of relevant evidence. The Audit Manager/team leader shall identify all contraventions of the regulations detected during the audit and will determine whether the related information should be forwarded to the Convening Authority 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 Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Department of the details and request a comprehensive investigation.

On receipt of the audit report, the Convening Authority, Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department will jointly 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 or appears to be the most appropriate sanction, the respective Safety Manager should consult with and get approval from the Director before implementing the suspension. See Chapter 13 for other deterrent action considerations.

10.2.2 Contraventions Detected by Other Means

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 Manager of respective department who has responsibility to investigate the matter (and the delegated authority to impose a penalty). The inspector or the Manager of respective department or the Director may address immediate operational considerations through the exercise of functional or safety powers under Thailand, e.g. the suspension of an

AOC, license of ANSP, aerodrome certificate to avoid an imminent threat to aviation safety 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 of Manager of respective department.

10.3 Contraventions of Foreign Aeronautics Legislation by Thai CAD Holders

These procedures apply whenever a Thai document holder is alleged to have violated foreign Aviation legislation.

If the allegations concern a regulation having a direct Thailand equivalent, the investigation shall proceed under the applicable Thai provision as if the contravention had occurred in Thailand.

In cases where allegations relate to a regulation without Thailand equivalent and where the contravention is confirmed, the Director, and the Manager of Flight Operation Standard Department may proceed administratively or judicially under the Act and Regulations.

Special Cases Involving Thai Registered Aircraft

Where Thai operators are involved in contraventions which may have certification implications, the Director, Flight Operation Standard Department shall advise the operational authority for that operator.

10.4 Treatment to Airspace Violations

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 in Thai controlled Oceanic Airspace

Alleged contraventions of Thai and Foreign aircraft will be investigated in the normal manner. Reports of contraventions by military aircraft are investigated to the degree possible and the information forwarded to the appropriate and competent military authority of Thailand.

10.6 Contraventions Involving Foreign Civil Aircraft

Where foreign civil operators are involved in contraventions which may have certification implications, the Director, Flight Operation Standard Department shall advise the operational authority for that operator through proper CAA Channels. International Civil Aviation Organization (ICAO) rules and agreements, various bilateral agreements between Thailand and other countries impact on the manner in which CAAT deals with contraventions involving foreign civil aircraft. Timely branch-to-branch consultations are mandatory to ensure expedient and effective enforcement actions.

While in Thailand, pilots and operators from foreign countries are expected to comply with the ICAO Standards.

While in Thailand, airmen and operators from foreign countries must comply with the applicable sections of the Act and regulations. Aeronautical operations by foreigners in Thailand are predominantly commercial operations and all of those operations require the operator to hold an AOC from their countries of registry. Where contraventions of the Act or regulations are involved, CAAT shall conduct a comprehensive investigation and report its conclusion to the foreign operator's National Civil Aviation Authority.

10.7 Foreign Private Aircraft

Foreign private aircraft include corporate aircraft and those operated by recreational flyers. These aircraft do not require an air operator certificate but are required to meet all of the requirements of their National Civil Aviation Authority and at a minimum, the ICAO SARPs.

10.8 Requests from Foreign Civil Aviation Authorities

Requests for assistance from foreign civil aviation authorities are normally received and are relayed to the appropriate department for action. In any event, full CAAT cooperation is expected in keeping with the intent of Article 12 of the ICAO Convention.

CHAPTER 11- CASE REPORTS

11.1 Introduction

A case report is an abridged relation of the facts of a case drawn up by the investigator for use by the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards Department. It is inserted as the first section of a case file. The case report provides a method of systematically compiling and summarizing all information pertinent to the case so that the respective Manager 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 case report, the respective Manager 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 case 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

The cover sheet of the case 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 Manager 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 DGCA 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 case 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 based on section 14.2 of this manual. While preparing a case 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 case report follows.

Sample Case Report



File Reference No. _____

CASE REPORT

(Alleged Offender's Name)

(Alleged Offender's License/approval/certificate Number)

(List the provisions contravened by section number)

Investigating Officer:
(Investigator's Name)

Date _____

CASE SYNOPSIS

(This summary of the case is intended to provide the respective Manager of Personnel Licensing, Manager of Flight Standards, Manager of Airworthiness and Aircraft Engineer, Manager of Aerodromes Standards, Manager of Air Navigation Services Standards and Department. 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 the Air Navigation Act B.E. 2497 as amended
Section _____ or the Civil Aviation Regulation (Regulation Number) _____

(Regulation Text)

ELEMENTS	FACTS TO BE ESTABLISHED	EVIDENCE	EXHIBIT
<i>(Reg element)</i>	<i>(Reg Fact)</i>	<i>(Evidence)</i>	

ANALYSIS:

JURISPRUDENCE

INVESTIGATOR'S RECOMMENDATION

Investigator's comments

SUPERVISOR'S COMMENTS

MANAGER'S DETERMINATION

DIRECTOR DECISION

LIST OF EXHIBITS

CHAPTER 12 - DETERMINING A COURSE OF ACTION FOR ENFORCEMENT

12.1 Purpose

This chapter describes the process Competent Officials/Aviation Inspectors use to determine the appropriate enforcement action for violations of statutory or regulatory safety requirements.

12.2 Corrective Action and Determining an Appropriate Response

In addressing non-compliance with the provisions of the Act and regulations, Competent Officials/Aviation Inspectors not only must determine an appropriate enforcement response, but also must ensure that appropriate corrective action has been taken to address the non-compliance. Officials/Inspectors must ensure that a regulated individual or company in non-compliance with safety requirements has taken appropriate steps to cease any continuing non-compliance. Officials/Inspectors also work collaboratively with regulated parties to improve systems and processes to guard against future non-compliance. A fundamental responsibility of Officials/Inspectors is educating regulated persons about statutory and regulatory safety requirements and improving and enhancing their ability to satisfy those requirements.

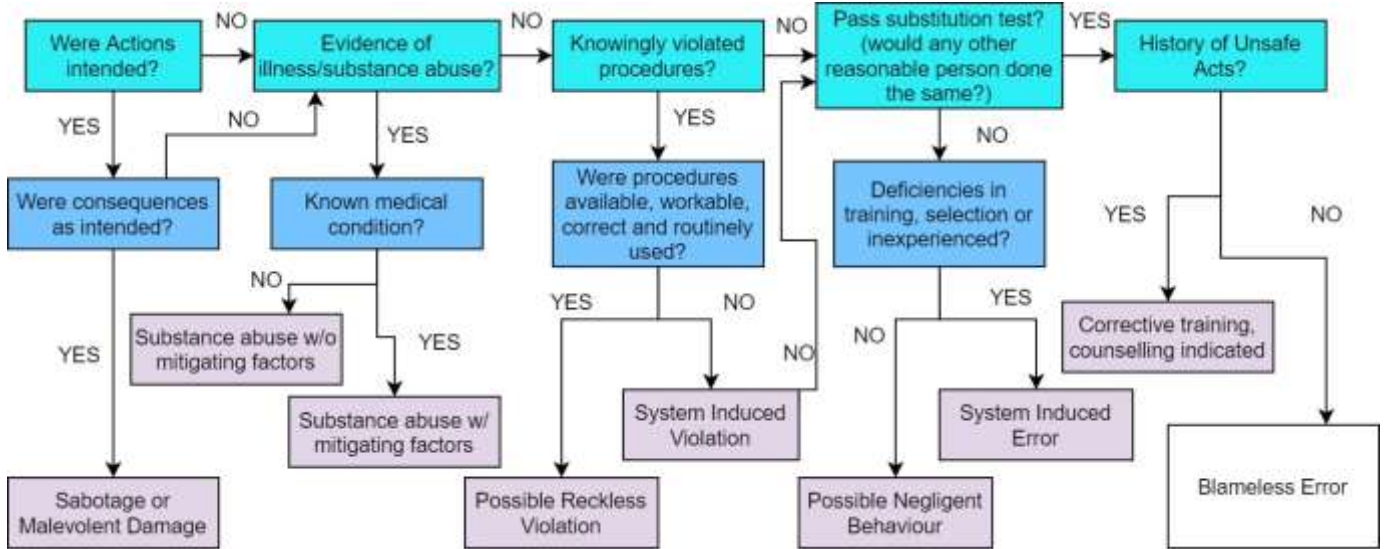
A distinction is made in the type of non-compliance when determining an appropriate response. For errors and minor non-compliances, routine corrective action is more appropriate. For violations, gross negligence and criminal activity, harsher enforcement actions would be more appropriate.

The James Reason flowchart below is used as a guide to classify the type of non-compliance, from which a decision on the appropriate enforcement action to be carried out.

The FAiR 2 flowchart analysis of Investigation Results may also be used to assist in determining the specific types of error or violation committed.

Prof Hudson's modified Just Culture Model should also be used as a reference to determine appropriate actions to the manager(s) of the individual who committed the error or violation.

James Reason Just Culture Model



Behaviours Analysis Flowchart

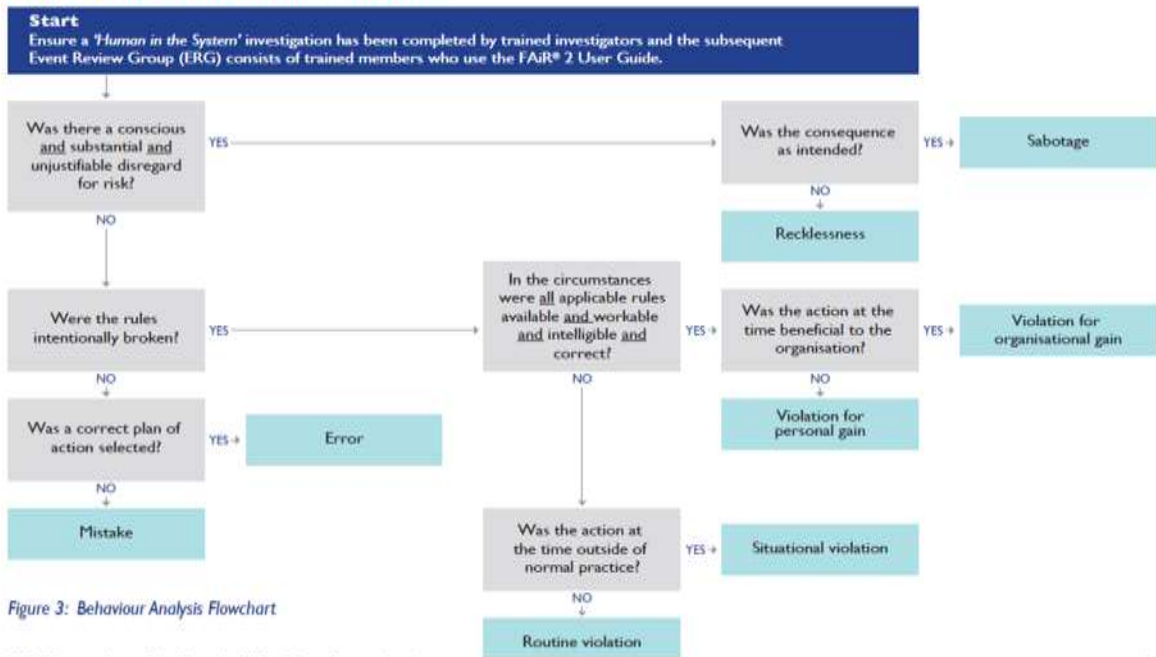


Figure 3: Behaviour Analysis Flowchart

Tests, Interventions and Accountability

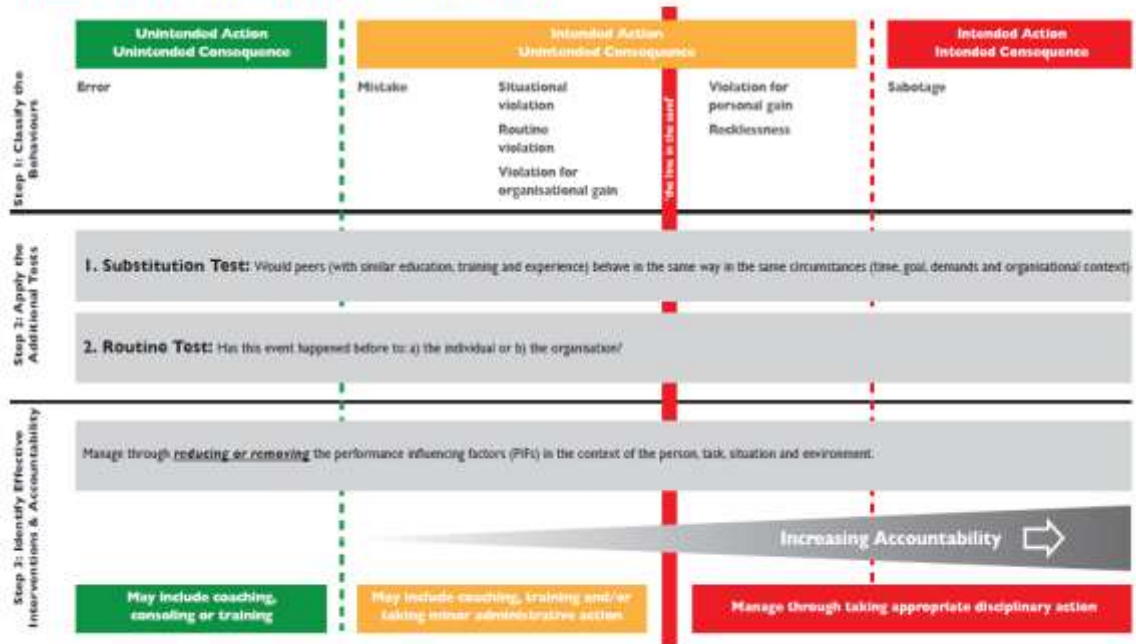


Figure 4: Tests, Interventions and Accountability

Behaviour	Intervention
Error	Address the human PIFs identified; this may include improving skills, a distraction policy, increased task awareness or job rotation for highly routine tasks. Encourage open reporting to highlight potential error provocative tasks and conditions.
Mistake	Address cognitive errors through performance management and training to improve knowledge and ensure data and information is available, workable, intelligible and correct. Encourage reporting to highlight issues with data and information.
Situational Violations Routine Violations Violations for organisational gain	Address any systemic problems including removing the perceived need to violate. Encourage reporting from staff to uncover situations where violations may occur. Reinforce acceptable / unacceptable behaviour particularly how staff are expected to react in sub-optimal situations. For example, by encouraging a Questioning Culture enabling staff to say 'stop'.
Violation for personal gain	Manage through appropriate disciplinary action.
Recklessness	Manage through appropriate disciplinary action.
Sabotage	Manage through disciplinary action. Civil and/or criminal prosecution.

Table 2: Behaviours to Interventions

Prof Hudson Modified Just Culture Model

Behaviour	Description of Behaviour	Consequences for the Individual	Consequences for the Managers of the Individual
Human Error	Human error is a part of life that can rarely be eliminated entirely. Disciplinary actions in line with local practices and guidelines are usually not appropriate when slips, lapses or mistakes have been made, but many things can be done to prevent their (re)occurrence.		
Slips and Lapses	Actions that did not proceed as planned e.g. something was done twice, the wrong way or a step is forgotten.	Coaching on how to spot errors, what influences the occurrence of slips and lapses and the importance of reporting them to aid detection of trends and underlying causes.	Coaching in Error Management.
Mistake	Mistakes are actions that proceed as planned but do not achieve their desired end. (Incorrect decision or inadequate plan).	Competence development/ coaching	Coaching in Error Management and Competence Management.
Routine Error <i>Some errors by different people</i>	It is not the first time that this type of error or mistake has happened.	Whole team to receive coaching on how to spot errors, what influences the occurrence of slips and lapses and the importance of reporting them to aid detection of trends and underlying causes.	Coaching in Error Management and Competence Management. Performance appraisal affected for not addressing clear problems in own area.
Routine Error <i>A personal history of errors – when the same errors are not made by others in similar situations</i>	It is not the first time that this type of error or mistake has been made by this person. Other people in similar situations do not make this error.	Assessment of fitness to work (abilities and suitability for this type of job). If appropriate, competence development and coaching. If not consider assigning alternative more appropriate type of work.	Coaching on Fitness To Work.
Unintended Violation	A rule or procedure violated because people were not aware of the rule or did not understand it.	Competence development/ coaching	Coaching on how to ensure procedures are correct, available, and understood.
Situational Violation	A job cannot be done if the rules are followed. Instead of stopping the job it is done anyway and the rule is violated.	Coaching on the need to speak-up when rules cannot be followed and to stop the job until it can be done safely. Mild disciplinary action in line with local practices and guidelines.	Coaching on Managing Rule-Breaking. If this type of situation has occurred before performance appraisal is affected for not demonstrating commitment to rule compliance.
Organisational Optimising Violation <i>Optimising for company benefit</i>	The person committing the violation thought it was better for the company to do it that way. The violation was committed to improve performance or to please the supervisor.	Coaching on the need to speak-up when rules cannot be followed and to stop the job until it can be done safely. Mild disciplinary action in line with local practices and guidelines.	Performance appraisal is affected. Coaching on Managing Rule-Breaking. If this type of violation has occurred before there should be formal discipline for reckless optimisation to creating a culture that encourages this behaviour.

Prof Hudson Modified Just Culture Model

Behaviour	Description of Behaviour	Consequences for the Individual	Consequences for the Managers of the Individual
Personal Optimizing Violation <i>Optimising for personal benefit</i>	The person thought it was better for them personally to do it that way e.g. getting a longer work break, easier way of doing the job, doing it faster, etc.)	Formal discipline If this has happened before, then formal warning process should be followed. Consider consequences publication of the violation and its consequences for worker and their managers.	Performance appraisal is affected for not becoming informed about clear problems in own area. Coaching in Managing Rule Breaking together with team. If this type of situation has occurred before performance appraisal is affected for condoning violation or not taking action. The reason for condoning this behaviour should be investigated; the model and flowchart will help determine whether the manager's behaviour was an error or violation.
Reckless Violation	The person committing the violation did not think or care about the consequences. Gross negligence can be considered a part of this type of violation.	Final warning or immediate removal for willful and reckless violations. In worst cases, consider dismissal in line with local practices and guidelines and possible criminal proceedings.	Coaching in how to recognise and deal with such behaviour earlier.
Routine Violation <i>Everybody does it like that</i>	Other people would have done or do it the same way. Checking for this type of violation can be done by using the 'substitution test'. Substitution Test: Would a significant proportion of individuals with the same training and experience have acted in the same way under the same circumstances?	Whole team to receive coaching in: Managing Rule Breaking	Performance appraisal may be affected for not becoming informed about clear problems in own area. Coaching in Managing Rule Breaking together with team. If this type of situation has occurred before performance appraisal is affected for condoning violation or not taking action.
Routine Violation <i>A personal history of violations</i>	The individual has a history of violation, disregard for the rules and procedures in general, not just frequent violation of the rules under investigation.	Formal discipline In worst cases, consider dismissal in line with local practices and guidelines.	Coaching in how to recognise individual violators. Performance appraisal is affected if it is found that violating is condoned or no action taken. If there are many routine violations of this type the reason for condoning this behaviour should be investigated; the model and flowchart will help determine whether the manager's behaviour was an error or violation.

12.3 Evaluation of Evidence

In determining an appropriate enforcement response, Officials/Inspectors must first review the evidence compiled during an investigation to determine whether a violation of the regulations has been committed. If Officials/Inspectors determine there is insufficient evidence to support a violation, to establish a lack of qualification of a certificate holder, or to raise a question concerning the qualification of a certificate holder, then no enforcement action is appropriate. To determine the appropriate response when evidence of statutory or regulatory non-compliance exists, Aviation Safety Inspectors use the Enforcement Decision Process described in this chapter. Enforcement personnel use the applicable sanction guidance policy outlined in Chapter 14 only in those cases where they determine that legal enforcement action is warranted.

12.4 Enforcement Decision Process

Competent Officials/Aviation Inspectors use the enforcement decision process in determining the most appropriate type of enforcement action to take considering all the facts and circumstances of each case. Under this process, Officials/Inspectors evaluate the apparent violator's conduct and compliance attitude, history of compliance with aviation safety requirements, and if necessary, assess the risk imposed by the violator's non-compliance. The process guides Officials/Inspectors in using stronger enforcement actions to address aggravated violations or those imposing a high risk to safety and using lesser enforcement response to address minor violations and those that present moderate or low risk to safety.

12.5 Applicability

Competent Officials/Aviation Inspectors apply the enforcement decision process to **all violations** for which there is sufficient evidence to establish that a violation occurred. After analysing the facts and circumstances of the violation under the enforcement decision process, the CAAT will take either counselling action recorded in a CAAT database, administrative action in the form of a warning letter, or legal enforcement action (for example, fine or license action) in a case, except in those types of cases that are categorically excluded under the process.

12.6 Definitions

The following definitions apply in using the enforcement decision process:

“Act” - an overt action and includes the failure to take an action.

“Adequate deterrent” - the enforcement action is reasonably likely to discourage the alleged violator and others similarly situated from committing the same or very similar conduct for the foreseeable future.

“Constructive attitude” - the apparent violator acts in a positive manner toward regulatory requirements, cooperates willingly with Aviation Safety Inspectors to achieve compliance, and willingly takes actions necessary to come into and maintain compliance.

“Inadvertent” - an act is the result of both inattention and lack of purposeful choice. A violation is inadvertent when it does not result from an alleged violator's conscious decision to take or not take any action that could have prevented the violation.

“Hazard” - a condition that could lead to injury or property damage.

“Lack of qualification” - a certificate holder lacks the skills and competency, or care, judgment, and responsibility necessary to hold that certificate.

“Likelihood” - the probability (frequent, occasional, or remote) of the worst type of injury or damage realistically occurring, considering the specific facts of the case.

“Legal action” - enforcement action other than administrative action or informal action.

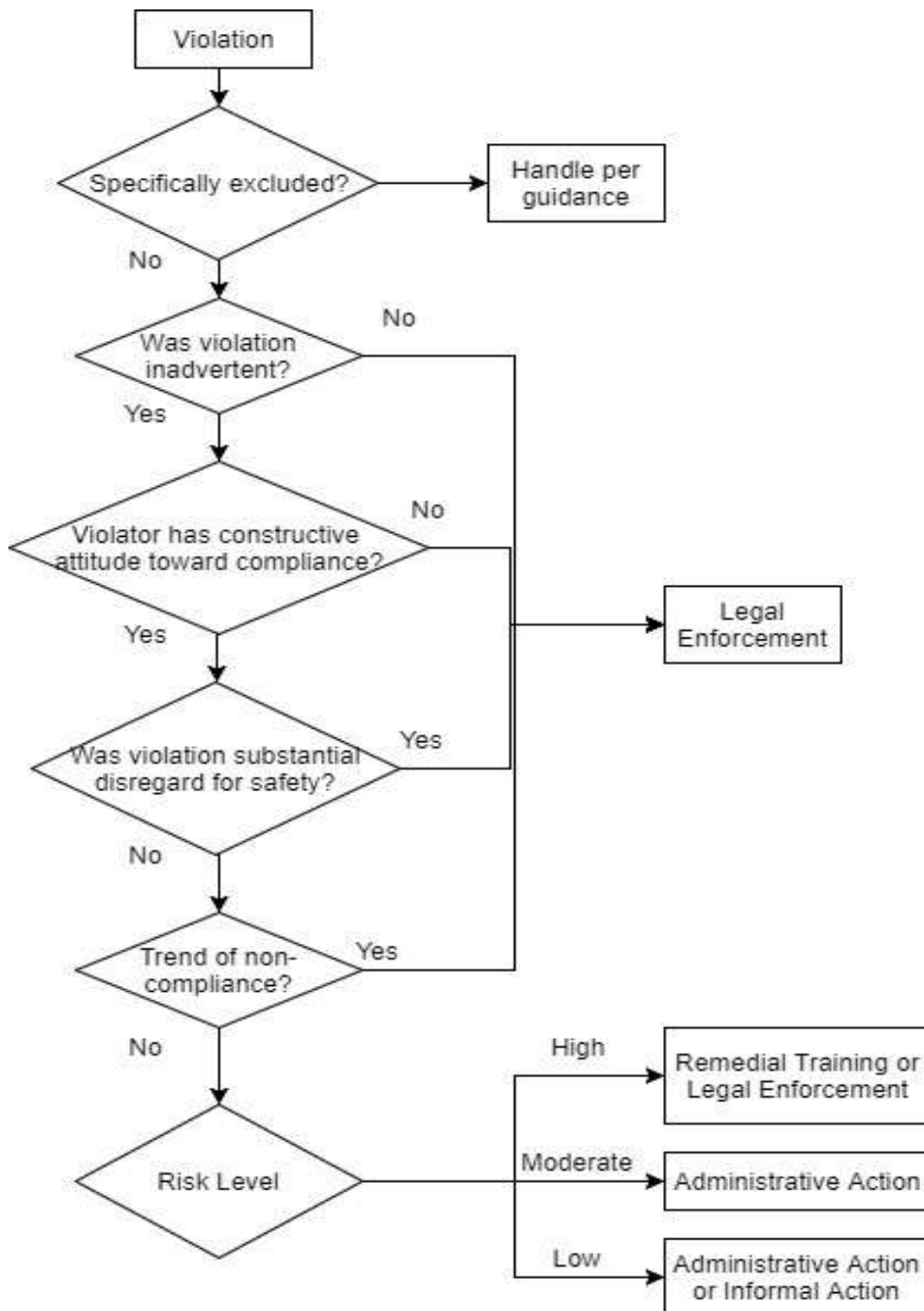
“Safety risk” - the level (high, moderate, or low) of potential injury or property damage from a hazard created by an act, considering the hazard severity and the likelihood that the severity will be realized.

“Severity” - the worst type of injury or damage (catastrophic, critical, marginal, or negligible) that could realistically occur from a generic violation of the type involved in the subject violation. A generic violation refers to the basic act or failure to act absent any specific facts or circumstances.

“Substantial disregard for safety” - in the case of a certificate holder, that the act was a substantial deviation from the degree of care, judgment, and responsibility normally expected of a person holding that certificate with that type, quality, and level of experience, knowledge, and proficiency. In the case of a violator who is not a certificate holder, substantial disregard means the act was a substantial deviation from the degree of care and diligence expected of a reasonable person in those circumstances.

12.7 Applying the Enforcement Decision Process for Violation

Competent Officials/Aviation Inspectors apply the enforcement decision process after they have completed their investigation and gathered sufficient evidence and other relevant information to analyse the facts and circumstances of the apparent violation. Competent Officials/Aviation Inspectors take the steps indicated in the flowchart below and analyse in each step the facts and circumstances indicated by the enforcement investigation or inspection results.



Note: Administrative action for moderate and low risk should be the issuance of warning letters.

12.8 Multiple Violations

When Competent Officials/Aviation Inspectors find during a single investigation or inspection, multiple apparent violations by the same person, they prepare only one **Enforcement Investigation Report (EIR)** and complete only one enforcement decision process worksheet for all apparent violations committed by that person. In the EIR and on the worksheet, Competent Officials/Aviation Inspectors recommend one type of enforcement action to address all such violations. If the investigation or inspection reveals violations by multiple violators, then Competent Officials/Aviation Inspectors prepare one EIR and one EDP worksheet for each violator. To determine the appropriate enforcement action that will be taken for multiple apparent violations discovered and addressed in an EIR, Competent Officials/Aviation Inspectors apply the enforcement decision process to the apparent violation they determine is the most extreme among all the violations found. All apparent violations reported in the EIR will be addressed with the type of enforcement action determined appropriate for the most extreme of the multiple violations.

12.9 Steps of the Process

A. Exclusions. The following matters might be excluded from the enforcement decision process:

(1) An issue involving lack of qualification, or question of qualification. These cases warrant either revocation of the certificate or a suspension of the certificate until the holder demonstrates qualifications. The following are examples of conduct indicating a lack of qualification:

- Failing to successfully complete a re-examination.
- Failing to possess the skills and competency required for the certificate held
- Refusing to permit and/or submit to an inspection, re-examination, or drug/alcohol test
- Intentionally falsifying a record or application
- Cheating on a written examination

Further guidance on qualification for personnel licensing can be found in **Appendix A**.

(2) Actions that warrant criminal sanctions. Matters involving criminal conduct must be referred to the appropriate office responsible for criminal investigations and prosecution.

(3) Special emphasis enforcement programs.

(4) Person operating without having been issued a required certificate, rating or other required authorization.

(5) Violations involving military pilots that are referred to the appropriate Military Department.

(6) Actions by Foreign Airman. Matter is referred for appropriate action to the licensing State of the airman.

(7) Legal action is required by law.

(8) If the organisation introduces and implements a satisfactory SMS

B. Evaluate the Violator's Conduct, Attitude, and Compliance History.

(1) General. If a case is not excluded from analysis under the enforcement decision process, then Competent Officials/Aviation Inspectors analyse the case by asking the questions below. If the Competent Officials/Aviation Inspectors determines that the answer to each question is the response indicated in the table of questions, then the Competent Officials/Aviation Inspectors evaluates the risk associated with the violation to determine the appropriate enforcement response. If the Competent Officials/Aviation Inspectors determines that the answer to one or more of the questions is not the response provided in the Table, then the Competent Officials or Aviation Inspectors recommends that legal enforcement action be taken and prepares an enforcement investigation report in accordance with the guidance in chapter 8.

Question	Response to Use Counselling or issue a Warning Letter
Was the violation inadvertent?	yes
Does the violator have a constructive attitude toward complying with the regulations?	yes
Was the violator's conduct a substantial disregard for safety?	no
Is the violation part of a trend of non-compliance by the violator?	no

(2) Evaluating Attitude. The apparent violator has a constructive attitude toward complying with the regulations, that is, an apparent violator that commits a significant number of unrelated violations, particularly of the same part of the CAAT's regulations over a relatively short period of time would ordinarily be regarded as having a poor compliance disposition; and

(3) Evaluating a Trend of Non-compliance. The apparent violation does not indicate a trend of non-compliance with, or a disregard for, Law and regulations in a particular part of the CAAT's Law and regulations because of a previous instance(s) of non-compliance with that part of the CAAT's Law and regulations. This determination must be based reasonably on the circumstances in each case, considering various factors, including whether the apparent violator is an individual or entity, and the size and scope of the apparent violator's operations. (1) With regard to an individual or a small company (for example, a local repair station with two or three employees) that has one

previous apparent violation or finding of violation of a particular part of the CAAT's Law regulations, a subsequent apparent violation of that part might not indicate a disregard for the regulations or trend of non-compliance if they occurred for different reasons. In this case, administrative action may be appropriate for the subsequent apparent violation, provided all other criteria are met.

On the other hand, if the apparent violations resulted from the same conduct by an individual or by the same part of a small entity's organization, then the subsequent

apparent violation might suggest a disregard for the law and regulations and the beginning of a trend of non-compliance. In this case, administrative action would not be appropriate. For entities conducting larger operations (for example, air carriers or aircraft manufacturers), a single, previous apparent violation or finding of violation by one part of the entity's organization would not likely preclude administrative action for a subsequent apparent violation committed by another part of the organization. In a large organization, two isolated apparent violations or findings of violation of the same part of the CAAT Law and regulations by different divisions within that organization would not necessarily indicate a trend of non-compliance with, or indicate a disregard for, the regulations in a particular part of the CAA's regulations by the entity's management. Administrative action, however, would not be appropriate where a review of the apparent violator's compliance background reveals a pattern of several, similar apparent violations or findings of violation of the same part of the CAAT's Law and regulations throughout the entity's organization that have gone undeterred by the use of administrative or legal enforcement action.

C. Analysing Risk. Competent Officials/Aviation Inspectors analyse the risk of an apparent violation(s), if they determine that the answers to the questions in the table above are the response indicated. To determine the level of risk, Competent Officials/Aviation Inspectors categorize the severity and likelihood of the hazard, that is, the dangerous condition, created by the apparent violation(s). They then apply the Risk Assessment and Enforcement Matrix ("the Matrix") as a guideline [CAAT may choose to use a different Risk Assessment Matrix with more levels of Severity and Likelihood.] to determine the level of risk for an apparent violation(s) and the corresponding enforcement action that should be taken.

(1) Determining Severity: Severity is the worst type of injury or damage that could realistically occur from a generic violation of this type. A generic violation refers to the basic act or failure to act without considering any specific facts or circumstances. To determine severity, CAAT enforcement panels do not consider the specific facts of the case; the specific facts of the case are considered only when determining likelihood. Severity and likelihood are determined separately. Severity must be determined without considering the likelihood of that severity being realised. For example, if a plausible argument can be made that a hazard could under circumstances result in death or severe damage, the severity is catastrophic, in spite of the fact that such an outcome from the hazard might be extremely rare. The most common error in determining severity is prematurely considering likelihood. Likelihood must be considered and determined after severity is determined. Severity can be one of the following:

- **Insignificant** – no significance to aircraft-related operational safety
- **Minor** – Degrades or affects normal aircraft operational procedures or performance
- **Moderate** – Partial loss of significant/major aircraft systems or results in abnormal application of flight operations procedures
- **Major** – Complete failure of significant/major aircraft systems or results in emergency application of flight operations procedures
- **Catastrophic** – loss of aircraft or lives




In assessing the severity of an act as one part of determining safety risk, the CAAT considers the potential outcome, not the actual outcome that resulted from the act. The potential severity can be catastrophic, critical, marginal, or negligible regardless of whether actual injury or property damage occurred or nearly occurred. For example, a 1,000-foot altitude deviation from an ATC clearance has the same potential outcome regardless of whether there was actually another aircraft that came into conflict or not. Similarly, a fuel exhaustion occurrence has the same potential outcome irrespective of whether an actual accident resulted. In these examples, the absence of another aircraft coming into conflict or the existence of suitable forced landing sites are fortuitous (by chance) circumstances not considered in the determination of severity, since other aircraft could have been in conflict (by chance) or there could have been a lack of suitable forced landing sites (by chance). In determining the severity, the existence of fortuitous circumstances is not considered.

(2) Determining Likelihood. Likelihood is the probability of the worst type of injury or damage realistically occurring, *considering the specific facts of the case*. In other words, Aviation Safety Inspectors determine how likely it is that the severity level would actually be realized, given the facts and circumstances involved. Likelihood can be one of the following:

- **Frequent** – likely to occur many times or has occurred frequently
- **Occasional** – likely to occur sometimes or has occurred infrequently
- **Remote** – unlikely to occur, but possible or has occurred rarely
- **Improbable** – very unlikely to occur or not known to have occurred
- **Extremely improbable** – almost inconceivable that the event will occur

(3) Determine the Safety Risk and the Appropriate Enforcement Action. CAAT enforcement personnel determine the safety risk (high, moderate, or low) and the appropriate enforcement action using the following matrix:

Risk probability	Risk severity				
	Catastrophic A	Hazardous B	Major C	Minor D	Negligible E
Frequent 5	5A	5B	5C	5D	5E
Occasional 4	4A	4B	4C	4D	4E
Remote 3	3A	3B	3C	3D	3E
Improbable 2	2A	2B	2C	2D	2E
Extremely improbable 1	1A	1B	1C	1D	1E

	Low Risk Level
	Medium Risk Level
	High Risk Level

D. Deviations from the Enforcement Decision Process. The facts and circumstances surrounding an apparent violation may warrant either a more serious action (legal enforcement) or less serious action (warning letter) than application of the enforcement decision process indicates. Competent Officials/Aviation Inspectors and other enforcement personnel must use good judgment and sound reasoning when exercising their discretion to address an apparent violation with the appropriate enforcement response even if it means taking an action other than what is indicated by the enforcement decision process. Competent Officials/Aviation Inspectors may determine a case warrants a deviation from the enforcement action indicated by the steps in enforcement decision process. If Competent Officials/Aviation Inspectors select a type of action other than that indicated by application of the process, then they must provide a justification and have approval of CAAT management. The following are examples of where a deviation from the type of action indicated by the Matrix *might* be justified:

(1) In certain cases, where a business commits an apparent violation that qualifies for warning letter or counselling but presents a high safety risk, a warning letter together with corrective action may be more appropriate to improve the operator's system for system safety benefits, even though the Matrix directs legal action. For these cases, the potential safety benefits of a structured corrective action process that incorporates a corrective action plan might be preferable to respond to the high safety risk.

(2) In certain cases, where a violation does not qualify for warning letter or counselling because an individual's apparent violation was not inadvertent, but there is negligible safety risk involved. For example, an apparent violation by a pilot who operates an aircraft without a pilot certificate in his or her possession but is qualified and current to operate aircraft, may be more appropriately addressed with a warning letter.

12.10 Documentation

A. Enforcement Decision Process - Competent Officials/Aviation Inspectors should document their decision-making process.

B. Enforcement Decision Process in EIR - Competent Officials/Aviation Inspectors include the completed documentation in the EIR.

C. Entry in Tracking Systems - Counselling, warning letters, and legal enforcement actions are recorded in a CAAT database. For counselling, which may not involve a written submission to the apparent violator, Competent Officials/Aviation Inspectors must record the following data in the database:

- (1) Name of the individual or business
- (2) Certificate type and number of the individual or business (as applicable)
- (3) Regulations involved (include section, paragraph and subparagraph)
- (4) Date of counselling
- (5) Type of counselling (oral or written)
- (6) For businesses, name and title of person counselled
- (7) Brief description of the apparent non-compliance

12.11 Review of Enforcement Decision Process in Each Case

CAAT Legal Department review the officials/inspector's recommendation and completed worksheet for each case. If they concur with the officials/inspector's recommendation, then the CAAT proceeds with the recommended action. If they do not concur with the officials/inspector's recommendation, then the Legal Officer discuss the facts and circumstances of the case with the official/inspector, and Legal Officer and the official/inspector reach a mutually agreeable resolution for how to proceed with the case and what if any enforcement action should be taken.

CHAPTER 13 - DETERRENT ACTION

13.1 Introduction

The most important decision in the enforcement process is determining the appropriate deterrent action to be taken when the evidence indicates that an individual has contravened a statutory provision. This decision may significantly affect the individual's attitude towards aviation safety and compliance in future. The intent of the systematic application of the procedures is to promote fairness and uniformity in the selection of the appropriate deterrent action. It helps to develop a history of the document holder's compliance with the applicable legal provisions so that the holder's attitude towards safety regulations can be gauged. Such a system will also deter document holders to defy the safety regulations as it will affect their image and reputation.

13.2 Objectives of Deterrent Action

The major objectives of deterrent action are:

- (1) to protect the individual and the public from possible harm;
- (2) to encourage future compliance; and,
- (3) to deter others from contravening Aviation legislations.

Achieving these objectives will contribute to the advancement of aviation safety which is the primary aim of aviation regulation.

13.3 Types of Deterrent Action

There are two types of deterrent actions: legal and administrative.

(1) Legal action involves the prosecution of an alleged offender in the criminal courts and is available only for offences specified under the Act. The actions that may be taken by the courts include fines and prison terms. For some offences under the Act, the Director, inquiry official or offense settlement committee shall settle the fine penalty with the offender, in accordance with section 120 of the Act.

(2) Administrative action comprises all deterrent measures, other than legal action, taken by the Director pursuant to the provisions of the Act and Regulations or respective requirements, includes the suspension and/or revocation of CAD, prohibitions, oral counselling and orders for additional training. Almost all deterrent actions taken by the CAAT are administrative actions. They are usually resolved quickly yet give the offender access to a review and the full process of natural justice. Administrative action in the form of a suspension or revocation or oral counselling can be used not only for designated provisions offences but also for summary conviction and hybrid offences.

13.4 Selection of Appropriate Deterrent Action

The type of deterrent action permitted in response to an offence depends on the specific offence.

(1) Designated Provisions

A designated provision is a provision in the Act or regulation that has been listed. Designated provisions may be enforced only by administrative action in the form of a suspension and revocation of the CAD; no prosecutions may be commenced in respect of the contravention of a designated provision.

(2) Hybrid and Summary Conviction Offences

Where a person has contravened a non-designated provision, the Director must decide whether to take administrative action by way of suspension/revocation of the CAD or to take legal action. All alleged contraventions of the Act or regulation shall be dealt with by taking administrative deterrent action except where the criteria for legal action are satisfied. The presumption is that a minimum enforcement sanction will be sufficient to achieve compliance. Stringent sanctions for a first offence are more likely to cause resentment than encourage future compliance. Moreover, administrative measures are usually more expeditious than prosecutions. (Criminal procedure is lengthy and expensive and courts are often unfamiliar with the significance of aeronautics offences.) Offenders may wish to have matters resolved with a minimum of delay while retaining the option for a review by a body that has expertise in aeronautics.

Where the alleged offender has been suspended in the past or has seriously jeopardized aviation safety, administrative action may be insufficient. In these cases, legal action may be more appropriate, particularly in light of the heavier sanctions normally imposed.

13.5 Administrative Action

Three types of administrative action which may be taken where personnel or an operator contravenes a provision or regulation are:

- (1) oral counselling;
- (2) a suspension of a CAD; or,
- (3) a revocation of CAD.

Oral counselling is primarily used when a CAD holder commits a minor inadvertent violation where the imposition of a sanction is not considered appropriate. It provides the CAD holder with immediate counselling on the necessity for compliance. All Competent Officials and Aviation inspectors can provide oral counselling relevant to their respective delegation of authority.

Examples of minor inadvertent violations:

- a. not carrying specified valid documents in flight as stipulated by the Act and regulations
- b. inadvertent omission to close a flight plan within the prescribes time period
- c. inadvertent omission of making a required log book entry
- d. error causing loss of separation where desired safety margin was not attained (separation less than the standard, but not less than half of it)

Suspension or revocation of a CAD would be appropriate where the operators/service providers or their employees had repeatedly contravened the Act and regulations even

though the safety implications were minimal. Revocation would also be appropriate where suspensions are not having the desired effect.

13.6 Remedial Training

Remedial training is primarily used when a CAD 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 Competent Officials and Aviation inspectors can recommend remedial training relevant to their respective delegation of authority.

Examples of minor inadvertent violations

- a. not reporting the mandatory occurrence in the standard format and or within specified timeframe
- b. inadvertent erroneous logbook entry
- c. error causing loss of separation where near collision existed requiring traffic avoidance manoeuvre (separation less than half the standard separation)
- d. Not adhering to the prescribed traffic pattern in the vicinity of an aerodrome
- e. inadvertent entry on an active runway without authorization when there is no other traffic

13.7 Action against Air Carriers

Different considerations apply regarding deterrent action for contraventions committed by air carriers from those which apply to contraventions committed by individuals such as pilots and other document holders. This is because sanctions imposed in respect of a contravention by an air carrier affect not only the carrier but also the carrier's employees and the public at large. Safety remains the overriding factor. Deterrent measures must impress upon the carrier that unsafe operation at the risk of public safety will not be tolerated.

13.7 Joint Legal-Administrative Deterrent Action

Legal action and administrative action may be taken simultaneously where evidence discloses that a person has contravened two or more different provisions arising from the same incident provided that each provision violated does not rely on the same facts. For example, if a charge of reckless and negligent flying under the Act relied in part on the fact that the pilot was low flying, the pilot could not also be proceeded against for low flying under the Regulations.

A prosecution for one offence may be accompanied by suspension for another offence only where common facts are not relied on. Legal and administrative deterrent action shall not be taken in respect of the same contravention. Either one or the other shall be selected depending upon the facts of the particular case.

13.8 Emergency Action

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

(1) Aircraft Detention or stoppage of service for Immediate Threat to Aviation Safety

Where the threat arises from a particular aircraft that is unsafe or likely to be operated in an unsafe manner, that aircraft may be detained pursuant to Section 41/119, 67, 67/7 and 67/8 of the Act. The detention shall remain in effect until the unsafe condition is corrected. Similarly, the ANS and Aerodrome facilities may be stopped with immediate instruction by the inspector and only be resumed once the unsafe condition is alleviated pursuant to Section 15/25, 60/20, and 67/8 of the Act.

(2) Air Operator Certificate and other approvals Suspensions for Immediate Threat to Aviation Safety

Where the threat arises from the operations of the carrier (instead of a single aircraft), the Director may decide to suspend or revoke the Air Operator Certificate under Section 41/120 of the Act. This sort of suspension must be viewed as a last resort to be carried out with extensive consultation among the various Departments as appropriate. The Director must be satisfied that the immediate threat to aviation safety 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 Director would usually be the suspending authority. The AOC suspension shall come into effect immediately and remain in effect until such time as the threat to aviation safety is removed.

Similarly, the licenses of ANS and Certificate of Aerodrome service provider may be suspended for immediate threat for civil aviation with an immediate effect by an instruction by ANS and AGA inspectors respectively pursuant to Section 15/23 and Section 60/31 of the Act.

13.9 Multiple Violations

Multiple violations involve a series of distinct and separate contraventions of a particular provision of the Act or regulation over a period of time. Each time, the circumstances of the offence may be different. For example, an aircraft could be operated in an overloaded condition each time it was flown during a certain period. Each time, the amount of overload could be different but there would be a violation every time. The contravention was not caused by something "inherent" in the aircraft, rather by factors present during the preparation of the flight.

In cases of multiple violations, the following procedures shall be used:

(1) Administrative Action

For multiple violations of the Designated Provisions, the Notice of Suspension shall state in the statement of offence the particulars of each offence including the dates and times of each flight in violation, and the sanction proposed in respect of each. Evidence to prove each individual infraction shall be secured so that in the case of a review by the Government the evidence can be presented.

(2) Prosecution

In the case of a summary conviction offence involving multiple violations, where prosecution is the desirable option, the government agencies (inquiry official,

government attorney, and criminal court) or offense settlement committee, as the case may be, shall be advised of CAAT's intention to lay charges in respect of each flight conducted in contravention of the regulations, that is, each flight should be set out as a separate count in the information.

13.10 Continuing Violations

There are a number of offences which could be repeated over a period of time as the result of a continuing condition or state of affairs. These generally relate to aircraft or personnel aviation document requirements, modifications or additions to aircraft equipment outside of airworthiness specifications and entries made in a log.

In view of the fact that separate acts which are successive and cumulative, comprising a continuous series, can be considered as one offence at the discretion of the Director the following procedures shall apply in the disposition of such cases:

(1) Administrative Action

In all cases of suspension determination, each separate flight conducted in violation of the Act and regulations shall be considered as a separate offence. The Notice shall provide the dates and times of each flight during the period of non-compliance, together with particulars and the sanction in respect of each offence.

(2) Provision for a Continuing Violation

A continuing violation which was the subject of enforcement action, but has not ceased, may need further action to secure compliance. If the violation was in respect of provisions not affecting airworthiness requirements, detention of an aircraft pursuant to Section 41/119, 67, 67/7 and 67/8 may not be possible. When the violations involve an air carrier, a viable option is to suspend the Air Operator Certificate relating to the particular aircraft operation under Section 41/120 of the Act in addition to any Enforcement action.

Similarly, the services of ANS and Aerodrome service provider may be suspended or revoke for immediate threat for civil aviation with an immediate effect by an instruction by ANS and AGA inspectors respectively pursuant to Section 15/23, 15/24 and Section 60/31 and 60/32 of the Act.

13.11 Flights with Intermediate Stops

Flights involving intermediate stops made on a scheduled or unscheduled basis should, where circumstances warrant, be treated as one flight. Where the facts giving rise to the violation remain the same on a flight with intermediate stops, e.g. a commercial aircraft is operated in violation of regulations on a flight ABC-JKL-XYZ, it is appropriate to lay charges in respect of the entire flight, as opposed to considering the flight as two separate offences. A submission may be made in speaking to sentence, emphasizing the fact that during each segment of the flight there was a decision to operate in violation of the regulations.

13.12 Voluntary Enforcement

Provisions in the regulations authorise certain entities to voluntarily undertake enforcement actions. If the proposed voluntary enforcement action is deemed

appropriate by the CAAT, the entity can carry out the action. Examples of typical voluntary enforcement include:

- a) Remedial training being undertaken
- b) Introduction and implementation of a satisfactory SMS
- c) Introduction and implementation of a compliance monitoring system verifiable by independent third-party audit
- d) Not employing a particular person in a management position

An agreement in writing must be accepted by both the CAAT and operator/service provider that allows entities to undertake voluntary enforcement.

13.13 Disclosure of Deterrent Actions

13.13.1 Disclosure to employers

Employers of Thai CAD holders should be advised of the deterrent action taken if the contravention took place while the alleged offender was on company business. If the alleged offender was not on company business at the time of the contravention, the disclosure of deterrent action to their employer is prohibited unless an exception under the regulations applies. An exception may exist where the deterrent action taken against a professional pilot affects the pilot's employment, e.g. suspension of licence 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 alcohol. The question of whether or not to inform an employer must be addressed on a case-by-case basis. The Director will decide if disclosure to the employer is appropriate.

13.13.2 Notification of Detection Source

The Manager of respective Department shall ensure that the detection source is advised of the outcome of the case and record this action.

13.14 Personnel Licensing

Guidelines for actions on personnel licences, certificates or approvals can be found in **Appendix B**.

13.15 Table of 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 / Warning Letter / Remedial Training	Oral/Written counselling / Warning letter
	Mistakes	Restriction of Civil Aviation document /Warning letter/Remedial Training	Oral/written counselling / Warning letter
	Repeated errors	Suspension of Civil Aviation document / Remedial Training/Removal from duties	
Violations	Violation	Refer to EDP flowchart/Sanction Tables	Refer to EDP flowchart/Sanction Tables
	Recurrent violation	Civil Penalty/Cancellation of Civil Aviation document See Note 3 below	Civil Penalty/Suspension of Civil Aviation document See Note 3 below
Criminal offences/ negligence	Recklessness/gross negligence	Legal Enforcement Action*	Legal Enforcement Action*
	Wilful-misconduct/ illegal activity	Legal Enforcement Action*	Legal Enforcement Action*
	Suspected lack of qualification/ competency	Legal Enforcement Action*	Legal Enforcement Action*

* Legal Enforcement Action to be handled by relevant legal authorities for prosecution or Director sanction actions covering suspension or revocation of CAD.

Note:

1. The above table provides suggested enforcement actions which may vary according to the circumstances of the Errors/violations/offences.

2. The above table should be used in conjunction with the flowchart of analysis of investigation using the Reason Model, the FAiR 2 System or Prof Hudson 's Just Culture Model, as appropriate.
3. If the violations resulted from the same repeated misconduct by an individual, or by the same department, section or group of a small entity's organization, then the subsequent violation might suggest a disregard for the regulations and the beginning of a trend of noncompliance. In this case, administrative action such as oral counselling, remedial training or informal action is not appropriate.

13.16 Liaison with the Office of the Attorney General

Legal Department should provide advice on case specifics, such as particular charges, to the Director, prior to approaching the Office of The Attorney General. It is clear that once the case has been turned over to the Office of The Attorney General, it becomes the responsibility of the Office of The Attorney General and that the CAAT will act as a resource and provide expert advice only. Communication with the CAAT is strictly at the discretion of the Office of The Attorney General

CHAPTER 14 - SANCTIONS

14.1 General

The list of examples which follows shall be used as a guideline by a CAAT concerned Officer (Manager/Inspector/Legal Officer, etc.) when recommending a sanction and by the Director when imposing a sanction. Nevertheless, each case must be judged on its own merits and every sanction shall be justified. This step is crucial in the event the decision is reviewed by the concerned government agencies (inquiry official, government attorney, and criminal court). To that effect, the examples 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:

(1) The sanction may be moderated in light of mitigating circumstances, (events which were inadvertently caused by misunderstanding, misconception or an honest mistake).

(2) The highest category of document related to the contravention would be the document suspended as a sanction for the contravention.

(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 reasonable period, to be defined by the authority.)

(4) Sanctions for all subsequent contraventions should be raised from previous sanctions.

14.2 Factors Affecting Choice of Sanction

(1) The facts surrounding the commission of the offence

- a. What was the role of the offender;
- b. Was there any pressure or undue influence exerted by an employer or an employee? and
- c. Were there mitigating circumstances not amounting to a defence?

(2) The gravity of the offence

- a. Was a threat to safety posed;
- b. Was there any actual harm done;
- c. Did the violation result in an incident or accident;
- d. Was there careless or reckless conduct; and
- e. Was is the maximum punishment available?

(3) The premeditation or deliberateness of the offence and attitude of the offender

- a. while "the mental element" is not relevant to guilt in strict liability offences it may be indicative of the offender's attitude;
- b. was recklessness involved or plain negligence;
- c. what is the offender's attitude toward safety; and
- d. what is the offender's attitude toward future compliance?

- (4) Personal characteristics to be considered – what is the offender's:
 - a. age;
 - b. experience level, knowledge and skill in Aviation;
 - c. training record;
 - d. employment – is a licence required to hold employment;
 - e. works in relation to any Thai CAD; and
 - f. financial position in regard to the ability to pay a fine or penalty?
- (5) The record of the offender
 - a. are there any prior sanctions on record;
 - b. is this an isolated act or is this person a repeat offender;
 - c. are there any related or similar offences on record; and
 - d. is there any question of competence or qualification involved?
- (6) Punishment
 - a. what is the range of sanctions available?
- (7) Deterrence and public safety
 - a. would the recommended sanction contribute to public safety; and
 - b. will the sanction act as deterrent to others?
- (8) Rehabilitation
 - a. will the sanction promote future compliance on the part of the offender?

14.3 Suspension of Civil Aviation Documents

According to the Act and Regulations the Director has the authority to suspend a CAD as a punitive measure in extreme case. Where violations may have an impact on safety, alleged offenders found in contravention of a regulatory provision shall be dealt with either by suspension of their CAD. Such conditions are warranted by the acts that could endanger the safety of the aircraft, occupant and general public.

Examples:

- a. Conducting a VFR flight in IMC condition.
- b. Cause to operate or operate flight with overloaded condition like exceeding maximum take-off mass
- c. Operating a flight over populated areas at an altitude below the minimum prescribed by regulations or requirements
- d. Performing non authorized aerobatic manoeuvres
- e. Reckless aircraft operations
- f. Performing assigned duties like Flight Operations, Maintenance or ANS Operations duties while under the influence of a psychoactive substance
- g. Unsafe acts like altercation in cockpit during flight
- h. 3 violations resulting in imposition of monetary penalty

Note: The sanction table in the appendix has described the number of days to be indicated based on CAAT Law, rules and regulations. CAAT officials has to bear in mind that the heftiness of the amount would be indicative of the gravity of the offence, while recommending a sanction.

14.3.1 Suspension Procedure

The suspension of CAD for contravention of a provision of the Act and regulations is the most severe administrative sanction the CAAT can impose. Suspension action is taken where continued use of the document would create a hazard to aviation safety and judicial action is either not available or inappropriate.

Where a CAD has been suspended, the person to whom it was issued shall return it to the CAAT and shall not exercise the privileges attached to that document until it is restored by the Director. Suspensions for contravention are punitive in nature and are in effect for a specified time period.

Note: Suspensions on other grounds may be corrective in nature and may be accompanied by conditions for restoration.

The following procedure may be followed for suspension of an aviation document: -

(1) The concerned Manager shall determine the appropriate duration of suspension on the basis of the recommendation of the investigator and propose to the Director who has power of suspension.

(2) In order to meet the ends of natural justice, a Notice of Suspension (show cause notice) to the alleged offender shall be required to be issued, whether or not it is legally binding and obligatory. The charge is required to be mentioned in the Notice and appropriate time should be given to submit his explanation. The standard format for show because notice is given in Appendix A. The Notice shall contain a clear description of the offence and sufficient details of the contravention so the alleged offender can identify the incident or incidents constituting the contravention. A copy of investigation report may be enclosed along with the notice.

(3) With the Notice, the concerned Manager shall enclose an information sheet describing the informal meeting procedure and offering the alleged offender an opportunity to discuss the sanction.

(4) The concerned Manager shall serve the Notice on the alleged offender 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.

(5) Where the alleged offender requests a review by the Director and applies for a stay of suspension pending its decision, the concerned Manager shall not oppose the application unless it appears that a threat to aviation safety would result. In such a case, the concerned Manager or his designate shall present the case to the Director.

(6) Where the alleged offender does not ask for a review by the Director within 15 days (or other specific time period) and then fails to deliver the suspended document, after giving due consideration for delay in the mail, charges shall be laid against the alleged offender. Prior to laying charges, the document holder should be contacted to confirm the situation.

(7) Suspended period may be endorsed on the CAD.

14.4 Revocation

Revocation of a document of entitlement because of incompetence, lapse in qualifications of the document holder or lack of medical fitness is within the purview of licensing and certification authorities. Authority to revoke a document for enforcement reasons under specific Section of the Act and regulations has been delegated to the Director. The procedure of revocation of CAD as per the provisions of **chapter 8** will be followed including the setting up of enforcement panel.

Revocation of the CAD is the appropriate action when:

(1) the document holder is a repeat offender against whom monetary penalties have previously been assessed

(2) the suspension of civil aviation document is inadequate and risk still persists

Examples for cases inviting the cancellation of civil aviation documents:

- a. operating flight with lesser number of flight crew than required by regulations
- b. conducting or cause to conduct repeated flight with overloaded condition like exceeding maximum take-off mass
- c. flying or cause an aircraft to fly with expired certificate of airworthiness
- d. commercial operation of aircraft with expired AOC
- e. 3 violations resulting in imposition of suspension of license in past

14.5 Appeal of Sanction

The alleged offender who has received a Notice of Suspension or a Notification of Revocation, may requests to review (appeal) the sanction. Keeping in mind that the objective of the sanction is to obtain future compliance and provide deterrence to others, the Director may review the decision and can modify or amend the original decision. This may be done when new evidence of a statutory defence or mitigating factors come to light, or when the Director obtains the assurance, during the discussion, that the alleged offender will comply in the future. Director may conduct informal meetings with alleged offenders in person, or other communication channel, or through

written submissions. During an informal meeting, Director may enter into penalty negotiations with a view to reaching a settlement in the case, thereby closing the file. Any discussions during the informal meeting are predicated on the fact that the alleged offender or the alleged offender's representative will not question the finding of the investigation

14.5.1 Appeal Hearings

The Appeal Hearing purpose is to review CAAT's action based on grounds if there has been a breach of any provisions in the Act and regulations warranting appeals against the enforcement action or decision. The Director will be a Chairman and the respective Managers, Head, Senior officer and Legal officer will be called for the Appeal Hearing meeting (as an appeal committee) in order to review or reject the appeal.

14.5.2 Review Hearing Application

The appellant must submit a written Request for Appeal within 15 days of being given notice by the CAAT. (The CAAT's notice sent to the appellant person must state clearly the availability of the opportunity to appeal enforcement actions or decisions that affect their licenses, certificates, approvals or application). The appeal must be sent by mail, fax or delivered to the Director in accordance with the Act on Administrative Procedure B.E. 2539 (1996).

The appeal may be in the form of a letter and should contain the following information:

- (a) Appellant's name, address, telephone numbers and FAX number (if applicable)
- (b) Name and telephone number of the organization, if any;
- (c) Enclose a copy of the CAAT's letter or notice of enforcement actions

Filing an appeal for a Review Hearing does not automatically implement a stay of a suspension or revocation of the decision or enforcement action. A request for stay may be made to the CAAT where the enforcement action or decision has been issued. Such request may be granted by the CAAT for a reasonable period of time, provided that no threat to aviation safety exists.

14.5.3 Appeal Procedure

The Manager of concerned Department handling the appeal will set a date, time and place for a Review Hearing meeting as soon as possible upon receipt of a written request for appeal from a person affected by the CAAT's enforcement action or decision.

Parties must appear personally or an association representative, a relative, a friend, etc. Witnesses may be requested to appear at the Hearing.

All relevant evidence should be presented at the Appeal Hearing. At the subsequent Appeal Hearing, only evidence which was not available at the time of the Review Hearing will be accepted and then only if the Appeal panel finds it necessary for purposes of the Appeal Hearing.

Evidence is usually in the form of testimony being provided. Documents and other forms of evidence may also be used. Minutes of the meeting is recorded to ensure that an adequate record or transcript is available for use at any subsequent Appeal Hearing.

14.5.4 Review Determination

The Appeal Committee (under 14.5.1) shall render a determination in writing following the proceeding. The Appeal Committee will provide written reasons together with the determination. In making its determination, the Appeal Committee may confirm the earlier CAAT decision or substitute its own, except where the original decision was based on medical grounds, incompetence, lack of qualifications or involved a suspension or revocation in the public interest. In these cases, the Appeal Committee is limited to confirming the decision or, if it is found that the decision was unjustified, to referring the matter back to the relevant Department Manager for reconsidering. If the matter is referred back to the relevant Department Manager for reconsideration, the decision is final and no further appeal.

14.5.5 Medicals

When CAAT recommends the suspension or revocation of a license on medical grounds, an Evaluating Medical Examiner or a Medical Assessor will usually be in a member of the Appeal Committee. To renew a license for medical reasons however, the burden of proving that such a decision is unjustified is on the person requesting the review. In the event the license holder in a medical case is uncertain as to the basis for the CAAT medical assessment, a preliminary meeting can be arranged. Any additional medical evidence should be brought to the attention of CAAT for reassessment prior to a Review Hearing.

14.5.6 Appeal Determination

The Appeal Committee which chaired by the Director will render a written determination based on the record of the Review Hearing and either oral or written as applicable. The Appeal Determination with written reasons will be served following the proceeding. If in the case that the appellant still dissatisfied with the decision, he or she can submit a case to the Central Administrative Court by filing a complaint to the Administrative Court or sending it by registered mail to the Administrative Court within 90 days from the date of receiving notification of a decision, in accordance with Section 49 of the Act on Administrative Procedure B.E. 2539 (1996).

14.7 Legal Action

Prosecution of service providers for a contravention of any provision in the Act and Regulation is recommended in all cases where, in the opinion of the Director if the contravention is such that it would be appropriate to seek a significant penalty (fine or imprisonment or both) in court.

14.7.1 Legal Action Criteria: Offences and Penalties

Penalty for contravention of provisions of the act is prescribed in **Chapter 9 Penalty Provisions of the Act**. Whoever contravenes any of the provisions of the Act or any regulations issued thereunder, shall be punishable with imprisonment for a term start from 1 month to 5 years or with fine which may start from 20,000 Baht to 2,000,000 Bath or with both, and in the case of continuing contravention, with an additional fine for every day during which such contravention continues after conviction for the first such contravention.

14.7.2 Burden of Proof

The Burden of Proof is on the CAAT, except in the case of failure to renew on medical grounds. The standard of proof for administrative action, that must be established, is Substantial Proof. However, as some cases may be tried later in a Court of Law, Legal Department policy is, that all investigations shall be conducted to the evidential requirements of Criminal Law.

14.7.3 Case Presenting Officer (CPO)

The CPO represents the Director. He/she presents evidence and makes representations on behalf of the Director and may act as expert witness in judicial

proceedings. The CPO would normally be one of the legal staffs of the Legal Department but may also be the Inspector who is responsible for conduct an investigation of the case.

14.7.4 Role of the CAAT Inspector

Any CAAT Inspector may be called to give testimony as either an eyewitness or expert witness. Eyewitnesses attempt to reconstruct a series of events that occurred at a particular point in time. Expert witnesses, on the other hand, give opinion evidence based upon their education and experience and attempt to assist the Director or a court to understand the evidence or to make a finding of fact, based upon the Expert's opinion.

14.8 Power to Settle Offences under the Act

Section 119 of the Air Navigation Act prescribed that the settlement authority under Section 120 shall have the power to settle all offences under this Act which are punishable by solely a fine or by imprisonment for a term not exceeding one year. The settlement authority under Section 120 is:

(1) The inquiry official for an offense punishable by solely a fine not exceeding fifty thousand Baht or by imprisonment for a term not exceeding six months or by a fine under Section 77;

(2) The Director for an offense punishable by solely a fine not exceeding fifty thousand Baht or by imprisonment for a term not exceeding six months or by a fine, which is not the offense subject to the power of the inquiry official under (1);

(3) The Offense Settlement Committee appointed by the Minister for an offense punishable by solely a fine exceeding fifty thousand Baht or by imprisonment for a term not exceeding one year or by a fine, which is not an offense subject to the power of the inquiry official under (1) or of the Director under (2).

In the settlement under chapter 9 of the Act, the settlement authority under (2) or (3) shall impose a fine not exceeding one-half of the punishment provided for such offense.

In accordance with Section 125 and Section 126 of the Act, when the settlement authority has settled a case, the case shall be deemed as settled pursuant to the provisions of the Criminal Procedure Code upon an offender paying a fine of the settled amount within a period of time specified by the settlement authority which shall not exceed thirty days from the date of settlement. But if an offender who consents to the settlement fails to pay the fine within the period of time specified by the settlement authority, the case shall continue and the prescription shall start counting from the due date of the fine pursuant to the order of the settlement authority.

14.9 Initiation of Judicial Action

Judicial action involves initiation of prosecution proceedings of an alleged offender in the criminal courts. All CAAT officers including concerned Managers, Manager of Legal Department, Legal Officers and Competence Officials/Aviation Inspectors shall follow

the procedures specified in the CAAT Rule on Standard of Control, Monitoring and Accelerate Criminal Proceedings

For this purpose, the following steps may be taken: -

(1) On detection of the violation, immediate action shall be taken by the responsible Competent Official or Aviation Inspector to initiate investigations for collection of the necessary evidence for the purpose of taking penal action.

(2) Highest priority must be accorded to investigations in all cases of violation of the statutory provisions as contained in the Act and the regulations. Such cases must be immediately brought to the attention of the respective Manager of the concerned Department by the Official/Inspector through the Initial Violation Process Form.

(3) The evidence must be collected without any delay to avoid losing it. It may be mentioned that since prosecution under the Act and the regulations made thereunder is of criminal nature, highest degree of proof is required for successful conviction. Further, since the burden of proving the violation lies with the prosecution, the evidence has to be fool-proof and legally tenable.

(4) The respective Manager of the concerned Department shall forward the report of the violation along with the evidence collected to the Legal Department for a decision in the matter.

(5) The appointed Legal Officer and Manager of Legal Department shall review the material on record and collectively arrive at a decision whether administrative action would suffice or the case warrants initiation of judicial proceedings against the offender. The decision will be proposed to the Director with regard to the initiation of judicial proceedings against the offender.

(6) The judicial action shall then be initiated by the Case Presenting Officer (CPO) in the court through the inquiry official and the government attorney having the appropriate territorial jurisdiction for the purpose.

14.10 Filing of Criminal Complaint

The following procedure shall be followed in filing of the Criminal Complaint: -

(1) Upon approval of the Director, the criminal proceedings shall be initiated by the Case Presenting Officer (CPO) as per the procedure laid down in the Code of Criminal Procedure.

(2) The Criminal Complaint must list the alleged offences with the case background. It must be supported by all the documents upon which the Case Presenting Officer (CPO) is relying as the complainant. Statements of witnesses recorded during the course of investigation and relied upon in the complaint, constitute a part of documents to be placed on record. The complaint should be accompanied with a separate "List of Documents" and "List of Witnesses" etc.

(3) As the burden of proof lies with the complainant it is advisable to have strong evidence prior to initiating a criminal complaint.

(4) On receipt of the complaint, the Court shall take cognizance of the complaint and on being satisfied that there is sufficient ground for proceeding with the case, the Criminal Court may issue Summons or Warrants, as the case may be.

(5) As the Summons / Warrants are issued only upon receipt of the list of prosecution witnesses, the authorized Officer shall ensure that the list of witnesses is placed on record of the Court along with the complaint.

(6) An extra copy of the complaint should also be provided to the Court, as it is mandatory that every summon or warrant issued to the accused is accompanied by a copy of the complaint.

(7) The court may then proceed with the framing of the charges and hearing will commence.

(8) The Case Presenting Officer (CPO) of the CAAT shall engage the inquiry official and the government attorney and seek his/her help and guidance at every stage of criminal proceedings.

14.11 Prescription/Limitation

Legal action is required to be initiated within a certain period of the commission of the offence, failing which it becomes time-barred and the court may not take consideration of the offence. The investigation, therefore, must be completed in time and case filed during the stipulated period, otherwise the entire effort may go waste.

14.11.1 Period of Prescription/Limitation

In accordance with Section 95 of the Thai Criminal Code B.E. 2499 (1956), if the offender is not prosecuted and brought to the Court within the following specified periods of time as from the date of the commission of the offence, the prosecution shall be precluded by prescription:

(1) Twenty years in case of offences punishable with death, imprisonment for life or imprisonment of twenty years;

(2) Fifteen years in case of offences punishable with imprisonment of over seven years but not up to twenty years;

(3) Ten years in case of offences punishable with imprisonment of over one year up to seven years;

(4) Five years in case of offences punishable with imprisonment of over one month up to one year;

(5) One year in the case of offences punishable with imprisonment of one month downwards or other punishment.

If the offender has been prosecuted and brought to the Court, but the offender escapes, or is insane, and the Court gives order suspending the trial till the specified period has expired reckoning from the date of escape, or the date of giving order suspending the trial, it shall be deemed that prosecution be likewise precluded by prescription.

It will, therefore, be seen that the cases under the Act shall fall in categories (3) (4) and (5) above. It may also be mentioned here that the period of prescription/limitation, in relation to offences which may be tried together, shall be determined with reference of the offence which is punishable with the most severe punishment.

14.11.2 Commencement of the Period of Limitation

The period of prescription/ limitation the cases under the Act shall commence on the date of the offence.

14.12 Guidelines for Legal Enforcement Action

Guidelines for Legal Enforcement Action can be found in Appendix C.

CHAPTER 15- ENFORCEMENT FOR SAFETY MANAGEMENT SYSTEMS

15.1 Enforcement Policy

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 CAAT

Intentional contraventions of regulations will be investigated and appropriate enforcement measures will be assessed.

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.

15.2 Applicability

The term "service provider" refers to any organisation providing aviation services. A SMS is mandatory for the following types of service providers:

- (1) Aircraft Operators
- (2) Aircraft Maintenance Organisations
- (3) Air Navigation Service Providers
- (4) Aerodrome Operators
- (5) Training Organisations
- (6) Aircraft Manufacturers
- (7) Other Aviation Service Provider

Service providers must maintain a SMS that is acceptable to CAAT for them to deal with contraventions of regulations internally. Under certain conditions CAAT step in to deal with contraventions. The conditions are as follows:

- (1) Occurrences involving gross negligence, intentional violations or criminal activity
- (2) Seriously biased/deficient investigations or corrective actions taken by service provider
- (3) Inadequate/ineffective safety investigation/resolution process by service provider
- (4) Failure to fully cooperate or provide required safety information to CAAT
- (5) Unsatisfactory SMS performance and failure to meet an acceptable level of safety performance
- (6) Service provider is a recurrent violator

15.3 Enforcement Principles

(1) Enforcement decisions must be fair, impartial, consistent, transparent, and available for use at the discretion of the service provider.

(2) Intentional contraventions of the Act and regulations will be investigated by CAAT and be subject to conventional enforcement action where necessary.

(3) 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.

(4) CAAT Aviation safety inspectors should at all available opportunities promote compliance with regulations through his actions and decisions

15.4 Surveillance

Service providers will be subject to inspections, including unannounced inspections, and audits to assess the degree of compliance with the safety regulatory requirements.

Assessments of service provider's SMS are done in the following areas:

- (1) Structure of the SMS and adequacy of staffing levels
- (2) Compliance with approved procedures and instructions
- (3) Achievement of required level of personnel competency and recurrent training
- (4) Adequate equipment performance for the safety level of service provided
- (5) Effective promotion of safety, monitoring of safety performance and processing safety issues
- (6) Adequate arrangements to handle foreseeable emergencies

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 CAAT and the service provider. However, surveillance activity should still continue regardless of performance.

15.5 Collection of Safety Data

As part of a SMS, service providers should develop and maintain a system for collecting, reporting, acting on and generating feedback about the hazards in operation. This system should cover both proactive and reactive safety reporting.

The reports CAAT receives should be confidential and not be used for the basis of enforcement action unless the violation involved gross negligence, intentional violations or criminal activity

15.6 Enforcement Procedures in an SMS Environment

15.6.1 General

Under the Thailand State Safety Programme (SSP), the CAAT is responsible for oversight of certificate holders operating in an SMS environment. Enforcement procedures provide guidance to those responsible for the oversight of service providers operating in an SMS environment, by advising on the appropriate response to acts or omissions to ensure that if enforcement action is taken it will be successful. Enforcement procedures play a supporting function in the process, and the final decision regarding any enforcement issue is the responsibility of the Director Aviation.

Each service provider will establish, maintain and adhere to an SMS that is commensurate with the size, nature and complexity of the operations authorized to be conducted under its operations certificate and to the hazards and safety risks related to these operations.

In order to develop an enforcement policy that supports the implementation of SMS, the CAAT Inspectors will maintain an open communication with service providers.

When a service provider operating under an SMS unintentionally contravenes the provisions of the Act and regulations issued thereunder, specific review procedures will be used. These procedures will allow the Authority Inspectors responsible for the oversight of the service provider the opportunity to engage in dialogue with the SMS-governed organization. The objective of this dialogue is to agree on proposed corrective measures and an action plan that adequately addresses the deficiencies that led to the contravention and to afford the service provider a reasonable time to implement them. This approach aims to nurture and sustain effective safety reporting, whereby service providers' employees can report safety deficiencies and hazards without fear of punitive action. A service provider can therefore, without apportioning blame, and without fear of enforcement action, analyse the event and the organizational or individual factors that may have led to it, in order to incorporate remedial measures that will best help prevent recurrence.

15.6.2 Enforcement Principles

The implementation of Safety Management Systems (SMS) requires that the CAAT develop a flexible enforcement approach to this evolving safety framework while at the same time carrying out enforcement functions in an equitable, practical and consistent manner. A flexible enforcement approach in an SMS environment shall be based on two general principles.

The first general principle is the development enforcement procedures that allow service providers to deal with, and resolve, certain events involving safety deviations, internally, within the context of the service provider's SMS, and to the satisfaction of the CAAT. Intentional contraventions of the Act and regulations issued thereunder will be investigated and may be subject to conventional enforcement action if appropriate.

The second general principle is that no information derived from safety data collection and processing systems (SDCPS) established under SMS shall be used as the basis for enforcement action.

15.6.3 Applicability

These procedures apply to contraventions that may have been committed by persons or service providers conducting activities under an SMS.

These procedures are effective on promulgation of this policy. They will be used in conjunction with any other existing relevant procedures identified in the Act and regulations issued thereunder.

Where service providers have demonstrated their willingness to conduct their operations under an SMS, SMS enforcement procedures may be used with respect to contraventions by those service providers that, although they do not have an accepted SMS, have some essential core components of an SMS in place and are in the process of full implementation.

The CAAT will not apply SMS enforcement procedures to service providers that, subsequent to the initiation of an investigation of a contravention, arbitrarily claim to be developing an SMS. These procedures will be used for service providers that have been diligently involved in the development of an SMS which would eventually meet the requirements of the SMS regulations, and are following a “phased approach” similar to the one outlined in the CAAT Regulations or Requirements for SMS - Guidance on Development of SMS.

Where service providers have not demonstrated they are operating in an SMS environment, the enforcement actions may apply without the advantages of the procedures explained above.

15.6.4 Procedures

For the purpose of determining whether an investigation should be conducted using SMS enforcement procedures, it will be necessary for aviation enforcement investigators to determine the SMS implementation status of the specific service provider. This determination would initially be made through communication between the investigators and the principal inspector who is responsible for oversight and certification of the service provider under investigation.

The principal inspector will ascertain if the service provider meets the above-mentioned criteria for SMS enforcement procedures. In order to facilitate initial assessment, the CAAT may develop a list of service providers that have initiated the SMS development and process. Making this list available to aviation enforcement will assist the investigators in making a decision regarding the use of the SMS enforcement procedures.

During the “phased approach” of the service provider’s SMS, the CAAT will apply the SMS enforcement procedures to service providers that do not have a fully implemented SMS, provided that certain conditions are met.

The CAAT will require, as a minimum, that the three following conditions be met before SMS enforcement procedures may be applied:

- (a) The service provider has an effective internal hazard reporting programme supported by upper management;
- (b) The service provider has a proactive event analysis process commensurate with the size and complexity of its operations and adequate for determining causal factors and developing corrective measures;
- (c) The information derived from the process referred to in paragraph 3, appropriately protected so as not to endanger SDCPS, is communicated, upon request, to the principal inspector assigned to the specific service provider.;

15.6.5 Initial report of violation

The Aviation Inspectors must conduct a preliminary analysis in all cases where a contravention is detected or where information about a possible contravention is received.

15.6.6 Preliminary analysis

The following questions should be considered based on the information received:

- (a) Are there reasonable grounds to believe that a person or organization conducting activities under an SMS may have committed a contravention?
- (b) Is the event of such a serious nature that enforcement action should be considered?
- (c) Is there any perishable evidence that should be secured for enforcement action?

15.6.7 Providing effective support

When the three questions are answered in the affirmative, the inspector shall be notified. The information shall identify the event and the contravention.

When requested, aviation enforcement investigators will provide effective support to the Manager of Concerned Department by advising on the appropriate response to the contravention, in order to ensure that if enforcement action is taken, it will be successful. Support for the Manager of Concerned Department includes collecting and securing perishable evidence.

15.6.8 Initiating an enforcement investigation

An enforcement investigation shall be initiated only upon the request of the Aviation Inspector, not the enforcement investigators.

15.6.9 Immunity

No information derived from an SDCPS established under an SMS will be used as the basis for enforcement action.

Note: *The SMS enforcement policy and associated procedures may also apply to foreign air operators who operate under SMS regulations, follow the requirements and guidance set forth by the International Civil Aviation Organization (ICAO) and meet the conditions outlined in this policy.*

CHAPTER 16 - RECORD AND TECHNICAL INFORMATION MANAGEMENT

16.1 Records Management

16.1.1 Removal of Notation of Sanction

Any notation of a suspension of a CAD or imposed by the CAAT shall, on request from the person affected by the suspension, be removed from the record if:

- (a) At least two years have passed since the date the suspension expired;
- (b) No additional suspension or penalty has been recorded against that person after that date; and
- (c) The removal of the record would not be contrary to the interest of aviation safety or security and if that person is not subject to an investigation under the Act or regulations.

A denied request cannot be resubmitted until an additional two years have passed from the date of the original application.

The decision to remove the record shall be made by the Director.

Removal of a notation of sanction means destroying the enforcement file that refers to the sanction, as well as all documents referring to the notation of sanction, from any other record. The circumstances of the infraction will remain in the enforcement database for statistical purposes.

16.1.2 Retention of Records

Aviation enforcement files shall be retained for the minimum time required by regulation of Office of the Prime Minister on the official document B.E. 2526 (1983).

16.1.3 Destruction of Files

The Director and the Manager of Legal Department shall review each file slated for destruction. Destruction of the file shall be accomplished by shredding the documents. The procedure to destruct files is specified in the regulation of Office of the Prime Minister on the official document B.E. 2526 (1983)

16.1.4 Control of Enforcement Records

All aviation enforcement records and CADs shall be treated as controlled documents. Manager of Legal Department and Legal Officer shall ensure that these documents and records are secured when work areas are left unattended.

16.2 Miscellaneous

16.2.1 Communications with the Media

In instances where communications with the public and news media arise, inspectors/investigators shall refer to the current CAAT policy.

16.2.2 Access to Information

Alleged offenders have the right to any information concerning their own person or the allegations against them. This information shall be freely given to them by the CAAT. Any other request must be made in writing to the Director.

16.2.3 Personal Information

Personal information is protected under the Constitutional of the Kingdom of Thailand and may only be released with the written consent of the individual to whom the information relates. However, that information may be disclosed to an investigative body specified under the Act, for the purpose of enforcing any law of Thailand whilst carrying out a lawful investigation. Prior to releasing any such information Legal Department shall be consulted.

16.2.4 Corporate Information

The names of corporate offenders may be published if the Director believes it to be in the public interest.

16.2.5 Public Release of Enforcement Action

Information contained in Police, the DOJ or a foreign agency investigation reports received by the CAAT, shall not be released without the approval of the referring authority.

16.2.6 Police / the Office of Attorney General/ Foreign Agency Reports

Information contained in Police, the Office of Attorney General or a foreign agency investigation reports received by the CAAT, shall not be released without the approval of the referring authority

16.2.7 Third Party Interests

Request from purchasers of aircraft, parties repossessing aircraft, trustees in bankruptcy etc., to obtain aircraft logbooks or other CADs should be referred to the relevant department.

16.2.8 Public Release – Enforcement Action

Court trials are a matter of public records. However, summary convictions and sanctions imposed by the CAAT on individuals are protected information under the Constitutional of the Kingdom of Thailand and are not to be disclosed except by permission of the individual concerned. De-identified cases may be published in the interest of aviation safety.

16.2.9 Matters before the Courts

Matters before the courts shall not be discussed with the public until conclusion of the case and then only concerning matters that are considered of public interest.

16.2.10 Criticism of the CAAT

When the CAAT comes under criticism during the course of an Inspector's duties, the Inspector should calmly acknowledge the comments and pass them along to his or her respective Manager of Department.

APPENDIX A

Sample Forms

Contents

1. Detection Notice
2. Letter of Investigation
3. Letter of Investigation (Remedial training)
4. Sample Statement Form
5. Letter of No Further Action
6. Warning letter
7. Letter of Correction
8. Acknowledgement of Completion of Corrective Action
9. Remedial Training Agreement
10. Successful Completion of Remedial Training
11. Transfer of Possession Form
12. Notice of Suspension or Revocation of CADs
13. Aircraft Detention/Grounding Notice
14. File Control Form

Note: *These Sample Forms are for guidance purposes and only suggested methodology for organizing and completing this Enforcement Policy and Procedures Manual for resolving safety issues. If there are any specific forms contained in respective Inspector Manual approved by the Director or respective Manager, those forms should be used. If not, respective Department shall review and adjust the contents in these forms in accordance with Thai Legislation and CAAT's practises accordingly.*

DETECTION NOTICE

Date of Detection	Date of Violation	Time of Violation	Place of Violation

Details of Alleged Offender

Name: _____

Address: _____

Phone: _____; Fax: _____; Cell: _____;
Email _____

Aircraft Details:

Aircraft _____ type: _____;

Registration: _____

Narrative

Alleged Violations

Details of Witnesses

Name: _____

Address: _____

Phone: _____; Fax: _____; Cell: _____;
Email _____

Preliminary Investigation Findings/Action Taken

Recommendation: Comprehensive Investigation No Further Action

Inspector: _____; Signature: _____; Date: _____

Decision: Comprehensive Investigation No Further Action

Assigned to: _____; Case file number: _____

Chief, ELS: _____; Date: _____

LETTER OF INVESTIGATION

File:

Date:

Name and address block

Dear Mr/Ms,

Subject: LETTER OF INVESTIGATION

I am investigating a possible violation of the Air navigation Act B.E. 2497 as amended and/or the Regulations of the Civil Aviation Authority of Thailand No....

An aircraft bearing the Thai National Registration HS-XXX was observed to ... (Narrative).

It is alleged that you were the Pilot in Command of this aircraft at the time of the occurrence.

It is requested that you present yourself at the Civil Aviation Authority of Thailand headquarters, Legal Department, where you will be given an opportunity to explain what took place.

You are not obliged to assist in this investigation, however if you chose not to provide a statement, a ruling will be made without your participation.

Yours truly,

[Name]

Director of the Civil Aviation Authority of Thailand

LETTER OF INVESTIGATION (REMEDIAL TRAINING)

File:

Date:

Name and address block

Dear Mr/Ms,

Subject: LETTER OF INVESTIGATION (REMEDIAL TRAINING)

I am investigating a possible violation of the Air navigation Act B.E. 2497 as amended and/or the Regulations of the Civil Aviation Authority of Thailand No....

An aircraft bearing the Thai National Registration HS-XXX was observed to ... (Narrative).

It is alleged that you were the Pilot in Command of this aircraft at the time of the occurrence.

It is requested that you present yourself at the Civil Aviation Authority of Thailand (CAAT) headquarters, Legal Department, where you will be given an opportunity to explain what took place.

You are not obliged to assist in this investigation, however if you chose not to provide a statement, a ruling will be made without your participation.

Also, we may allow you to take part in CAAT's corrective action through remedial training program, rather than taking enforcement action against you. Remedial training may be appropriate if we find that:

- a. The apparent violation was not deliberate or grossly careless;
- b. The apparent violation did not involve apparent criminal conduct or disclose a lack of qualifications to hold an airman certificate;
- c. You fully disclosed the facts and circumstances of this incident during our investigation; and
- d. Our review shows you have a good record of compliance with our regulations.

For us to allow you to participate in the corrective action through remedial training program, you must respond to this letter within 10 days of receiving it and express your interest in pursuing a course of remedial education. However, the decision to use remedial training is within our discretion, and your interest in the program does not guarantee that we will allow you to take remedial training instead of being subject to legal enforcement action.

If you want to receive remedial training, and the CAAT inspector believes it may be appropriate, you will meet with the inspector, who will confirm whether we will allow you to take part in the training program. The inspector will propose a training course for you, at your expense. If you agree to the proposed program, you and the CAAT will sign an agreement describing its terms and conditions. When you complete the training satisfactorily, within the time specified, we will issue you a Warning Letter and will close the matter.

If you fail to carry out any of the terms of the agreement, we will terminate your participation in the program and may take legal enforcement action against you. We may use the information you give the CAAT, including the response to this letter, in determining whether remedial training is appropriate. We may use our decision to not offer you remedial training, or your failure to complete the program satisfactorily, in any later legal enforcement action we take.

You can get more information on our corrective action through remedial training program by calling [CAAT staff name and number].

Yours truly,

[Name]

Director of the Civil Aviation Authority of Thailand

LETTER OF NO FURTHER ACTION

Date:

Name and address block

Dear Mr/Ms,

Subject: NO FURTHER ACTION

An investigation into an allegation of a contravention of (appropriate Provision) was conducted.

All available evidence was reviewed. As a result it was determined that no violation took place.

In the interests of aviation safety, a copy of the appropriate section of the Regulations or the Act has been enclosed for your information.

This matter is now closed.

Best regards,

[Name]

Director of the Civil Aviation Authority of Thailand

WARNING LETTER

Date:

Name and address block

Dear Mr/Ms,

Subject: WARNING LETTER

You were the pilot in command of a Beech Baron HS-XXX that landed at the Krabi Airport on May 26, 2019. It appears that you did not have a pilot certificate or photo identification in your personal possession or readily accessible to you in the aircraft at the time of your flight. This conduct is allegedly in violation of Section 16 of the Air Navigation Act B.E. 2497 as amended.

We talked about this matter and concluded that it does not merit legal enforcement action. In place of enforcement, I am issuing this letter. [Authority may include statement regarding how long the warning letter is kept in CAAT records or databases].

If you want to add any information in explanation or mitigation, please write me at the above address. We expect your future compliance with the regulations.

Best regards,

[Name]

Director of the Civil Aviation Authority of Thailand

LETTER OF CORRECTION

Date:

Name and address block

Dear Mr/Ms,

Subject: LETTER OF CORRECTION

From (date), the Civil Aviation Authority of Thailand (CAAT) inspected your (inspection area) for compliance with [regulations]. At the end of that inspection, we advised you of the following findings:

[Findings]

This is to confirm our discussion with you on ... at which time immediate corrective action was begun [Corrective action taken].

We have considered all available facts and concluded that this matter does not warrant legal enforcement action. In lieu of such action, we are issuing this letter of correction which will be made a matter of record.

Best regards,

[Name]

Director of the Civil Aviation Authority of Thailand

ACKNOWLEDGEMENT OF COMPLETION OF CORRECTIVE ACTION

Date:

Name and address block

Dear Mr/Ms,

Subject: ACKNOWLEDGEMENT OF COMPLETION OF CORRECTIVE ACTION

This is in response to your letters of (dates), concerning the (narrative), and the findings stated in our letter of (date).

The corrective action discussed in your letters has been evaluated, on-site, by the CAAT principal Inspector and has been found to be satisfactory.

In closing this case, we have given consideration to all available facts and concluded that the matter does not warrant legal enforcement action. In lieu of such action, we are issuing this letter which will be made a matter of record.

Best regards,

[Name]

Director of the Civil Aviation Authority of Thailand

REMEDIAL TRAINING AGREEMENT

Date:

Name and address block

Dear Mr/Ms,

Subject: REMEDIAL TRAINING AGREEMENT

On (date), you were advised that the Civil Aviation Authority of Thailand (CAAT) was investigating an incident that occurred on (date) in the vicinity of (location), and involved (narrative)

You have been advised that such an operation is contrary to CAAT Regulations. Therefore, you have agreed to enter into this training agreement. In consideration of all available facts and circumstances, we have determined that remedial training as a substitute for legal enforcement action is appropriate. Accordingly, your signature on this letter signifies your agreement to complete the prescribed course of remedial training within the assigned period of time.

To complete this remedial training program successfully you must do the following:

- a. You must obtain the required training from an approved source. Approval can be obtained verbally from the Flight Standards Office, upon obtaining the services of a certified flight instructor.
- b. Once training begins, you are required to make periodic progress reports to this office.
- c. You are required to complete all elements of the remedial training syllabus and meet acceptable completion standards within 21 days of accepting this training agreement.
- d. You are required to provide this office with written documentation indicating satisfactory completion of the prescribed remedial training. You must provide the original of a written certification signed by the certified flight instructor who conducts the remedial training. The written certification must describe each element of the syllabus for which instruction was given and the level of proficiency you have achieved.
- e. All expenses incurred for the prescribed training must be borne by you.

REMEDIAL TRAINING SYLLABUS

Syllabus Objective: To improve the student's knowledge and pilot proficiency concerning (operation of certain area).

Syllabus Content: [Example]

- a. A minimum of two hours of ground instruction on the following subjects:
 1. Compliance with ATC clearances
 2. Programming and use of the GNS 430 navigation system for IFR operations
 3. Use of the autopilot for IFR operations
- b. A minimum of one hour of flight instruction in IFR procedures to include:
 1. Compliance with IFR clearances
 2. Use of the GNS 430 navigation system and the autopilot for IFR departures and arrivals
 3. Timely response to undesired autopilot commands

Completion standards: The training will have been successfully completed when the assigned instructor, by oral testing and practical demonstration, certifies that the student has completed instruction in the above-mentioned subjects in accordance with the remedial training syllabus.

Best regards,

[Name]

Director of the Civil Aviation Authority of Thailand

I agree to comply with the terms and conditions specified in this letter. I understand that failure to complete any element of this agreement within the prescribed period of time may result in my removal from the corrective action through remedial training program and may result in appropriate legal enforcement action.

[Name]

Date

Date:

Civil Aviation Authority

Flight Standards Department

Name and address block

Dear Mr/Ms,

This is to certify that (name) has satisfactorily completed the entire training program shown below, as required by the prescribed remedial training syllabus and achieved the level of proficiency described below:

Syllabus Objective: To improve the student's knowledge and pilot proficiency concerning proper use of the SR-22 navigation and autopilot avionics systems specific to HS-XXX.

Syllabus Content: [example]

a. A minimum of two hours of ground instruction on the following subjects:

1. Compliance with ATC clearances
2. Programming and use of the GNS 430 navigation system for IFR operations
3. Use of the autopilot for IFR operations

b. A minimum of one hour flight instruction in:

1. Compliance with IFR clearances
2. Use of the GNS 430 navigation system and the autopilot for IFR departures and arrivals.
3. Timely response to undesired autopilot commands

Level of Proficiency Achieved: _____

Signature: _____

CFI Certificate no.: _____ Expires: _____

Date signed: _____

ACKNOWLEDGEMENT OF COMPLETION OF REMEDIAL TRAINING

Date:

Name and address block

Dear Mr/Ms,

Subject: ACKNOWLEDGEMENT OF COMPLETION OF REMEDIAL TRAINING

I am writing in regard to your operation as pilot in command of a Cirrus aircraft, HS-XXX, on (date). The aircraft, identified as a Cirrus SR-22 aircraft, HS-XXX, was operating contrary to an air traffic clearance while under Instrument Flight Rules (IFR). You were identified in Class D airspace in the vicinity of the Sky City International Airport. That operation is contrary to [regulation] (cite which one).

On [Date] , you agreed to complete a program of remedial training as a substitute for legal enforcement action. You submitted evidence showing satisfactory completion of two hours of ground instruction in:

- compliance with ATC clearances, programming
- use of the GNS 430 navigation system for IFR operations
- use of the autopilot for IFR operations.

You also completed one hour of flight instruction in:

- compliance with IFR clearances,
- use of the GNS 430 navigation system and autopilot for IFR departures and arrivals, and
- timely response to undesired autopilot commands.

We considered all available facts and conclude that legal enforcement action will not be pursued. This decision is based on your satisfactory completion of the remedial training program. This letter will be made a matter of record for a period of two years. It does not constitute an admission or settlement of a violation.

We appreciate your cooperation in this matter and expect your full compliance with the regulations in the future.

Best regards,

[Name]

Director of the Civil Aviation Authority of Thailand

NOTICE OF SUSPENSION

Date:

Name and address block

Dear Mr/Ms,

Subject: NOTICE OF SUSPENSION

An investigation into an allegation that you contravened certain provisions of the Air navigation Act B.E. 2497 as amended and/or the Regulations of the Civil Aviation Authority of Thailand No.... revealed the following:

It was proven that you violated (applicable Provision), in that you did operate aircraft (registration), a (aircraft type and model, on or about (date of violation), at or about (time of violation), at or near (location of violation), to wit, you (narrative of the violation).

As a result of your actions, the Director General has decided to suspend your [Aviation Document/Certificate] for a period of (sanction). This period is in effect immediately.

You are hereby directed to surrender your (Aviation Document) to the [Civil Aviation Authority of STATE], where it will be kept upon your personnel file until such date and time that the suspension expires.

Failure to surrender the document will result in additional sanctions. In the event that you should be found to be operating an aircraft whilst your (Aviation Document) is suspended, your case will be forwarded to the judiciary for civil prosecution.

Yours truly,

[Name]

Director of the Civil Aviation Authority of Thailand

Note: *This Notice should be drafted or proved by the Legal Department.*

AIRCRAFT DETENTION/GROUNDING NOTICE

Date:

Name and address block

Dear Mr/Ms,

Subject: AIRCRAFT DETENTION/GROUNDING NOTICE

As a result of an investigation concerning an allegation that your aircraft, registration), (aircraft type and model) does not meet the requirements of (legislative Provision) and consequently does not have a valid Certificate of Airworthiness (C of A), the Civil Aviation Authority of Thailand , hereby detains/grounds the said aircraft until such time as all conditions are met to ensure the validity of its C of A.

The aircraft's C of A is not valid because (Narrative).

In order to rescind this detention/grounding order, you are required to produce Proof Positive that the condition leading to this grounding order has been rectified.

In the event that you should be found to be operating this aircraft whilst the aircraft's C of A is invalid, your case will be forwarded to the Judiciary for civil prosecution.

Yours truly,

[Name]
Director of the Civil Aviation Authority of Thailand

File Control Form, Case No. _____

A check of this form was conducted to ensure legislative applicability. All elements have been proven, the evidence supports the charge(s) and the file is complete.

I agree with the recommendation(s)

I do not agree with the recommendation(s)

Reasons:

Assistant Director General - ELS

Date

INSTRUCTIONS/RECOMMENDATION:

DECISION:

[Name]

DATE

Director General

Civil Aviation Authority of Thailand

APPENDIX B

Enforcement Guidelines on Personnel Licensing matters

1. Action in respect of Flight Crew Licences (Pilots and Flight Engineers)

We will generally consider the taking of action in respect of Flight Crew Licences against the following criteria:

Competence – Any pilot whose flying ability is called into question is subject to consideration for enforcement action.

Qualification – Any licence holder who acts outside of the privileges for which they are qualified is subject to consideration for enforcement action.

Fitness – Fitness in this context means fitness of character. We will consider all relevant matters, including whether the holder has demonstrated a propensity to disobey the law or to act dishonestly or without integrity. Information that may call into question a licence holder's fitness includes, but is not limited to:

- Drug related offences/activities
- Alcohol and other psychoactive substances
- Falsification of, or failure to keep, records
- Propensity not to comply with rules and regulations (this may include failure to disclose licensing issues and / or failure to disclose medical conditions)
- Any other action that would impact on flight safety or the safety of persons on the ground
- Criminal convictions

Enforcement action:

This will depend on severity and could therefore range from an informal discussion to licence suspension and / or prosecution.

Corrective action:

Possible retraining and re-testing.

2. Action in respect of Licensed Aircraft Maintenance Engineers.

We will generally consider the taking of action in respect of licences issued in accordance with the Air Navigation Order against the following criteria:

Competence – Any engineer whose ability to perform the tasks for which they are licensed is called into question is subject to consideration for enforcement action.

Qualification – Any licence holder who acts outside of the privileges for which they are qualified is subject to consideration for enforcement action.

Fitness – Fitness in this context means fitness of character. We will consider all relevant matters, including whether the holder has demonstrated a propensity to disobey the law or to act dishonestly or without integrity. In this respect the criteria set out under the scenario above will be applied.

Enforcement action:

This will depend on severity and could therefore range from an informal discussion to licence suspension and / or prosecution.

Corrective action:

Retraining and re-testing where appropriate.

Enforcement action:

Revocation, suspension or limitation of the aircraft maintenance licence.

Corrective action:

Retraining and re-testing where appropriate

APPENDIX C

LEGAL ENFORCEMENT ACTIONS

1. Offences Settlement by the Director

Section 120 (2) of the Act given the power to the Director to impose fine penalty on an alleged offender who committed offenses which are punishable by **a single fine not exceeding fifty thousand Baht or imprisonment for not more than six months**, not less than half of the fine penalty imposed for that offense. When the alleged offender has paid the fine according to the settled amount within a period of time specified by the Director which shall not exceed thirty days from the date of settlement, the case shall be deemed as settled pursuant to the provisions of the Criminal Procedure Code.

Therefore, in order for the Offences Settlement operation to be completed, by virtue of the provisions of Section 119, Section 120 (2), Section 121, Section 123, Section 125 and Section 126 of the Air Navigation Act B.E. 2497 as amended, the Director had issued the Rule on Offences Settlement which include the procedures, terms and conditions for settlement the offences that punishable by a single fine not exceeding fifty thousand baht or imprisonment for not more than six months. Moreover, the table of fixed fine rate that will be imposed to the alleged offender when settle the case is also attached to the said Rule.

2. Offences Settlement by the Offense Settlement Committee

Section 120 (3) of the Act given the power to the Offense Settlement Committee appointed by the Minister to impose fine penalty on an alleged offender who committed offenses which are punishable **by a single fine exceeding fifty thousand Baht or by imprisonment for a term not exceeding one year**, not less than half of the fine penalty imposed for that offense. When the alleged offender has paid the fine according to the settled amount within a period of time specified by the Committee which shall not exceed thirty days from the date of settlement, the case shall be deemed as settled pursuant to the provisions of the Criminal Procedure Code.

Therefore, in order for the Offences Settlement operation to be completed, by virtue of the provisions of Section 119, Section 120 (3), Section 121, Section 122, Section 125 and Section 126 of the Air Navigation Act B.E. 2497 as amended, the Minister had issued the Notification of Ministry of Transport on Meetings and proceedings of the Settlement Committee which include the procedures, terms and conditions for settlement the offences that punishable by a single fine exceeding fifty thousand Baht or by imprisonment for a term not exceeding one year. Moreover, the table of fixed fine rate that will be imposed to the alleged offender when settle the case is also attached to the said Notification.

3. Recommended Certificate Action

These sample certificate action guidance tables just provide a recommended approach to assessment of administrative action of the CADs suspension or revocation for violations of CAAT regulations and requirements.

Violation	Certificate Action
I. AIR OPERATORS AND AERODROME OPERATORS	
1. Maintenance manual	
(a) Failure to maintain current manual	Up to 7-day suspension
(b) Failure to provide adequate instructions and procedures in manual	
(c) Failure to distribute manual to appropriate personnel	
(d) Release of aircraft without required equipment	Up to 7-day suspension
2. Failure to comply with Airworthiness Directives	
3. Operations specifications	
(a) Failure to comply with inspection and overhaul time limitations	Up to 7-day suspension
(b) Operations contrary to operations specifications – technical noncompliance	
(c) Operations contrary to operations specifications – likely potential or actual adverse effect on safe operations	
4. Failure to provide adequately for proper servicing, maintenance, repair, and inspection of facilities and equipment	Indefinite suspension until proper servicing, maintenance, repair, and inspection of facilities and equipment is provided to revocation
5. Failure to provide or maintain a maintenance and inspection organization	Indefinite suspension until appropriate maintenance and inspection organization is provided to revocation
6. Training programme	
(a) Failure to have or maintain an effective training programme	Indefinite suspension until compliance is demonstrated to revocation
(b) Failure to maintain training programme	
(c) Failure to train personnel adequately	
7. Maintenance or aircraft paperwork	
(a) Incomplete or unsigned release	
(b) Failure to revise aircraft data after repair	
8. Performance of maintenance	
(a) By unauthorized person	
(b) Failure to perform or improper maintenance	
9. Failure to revise aircraft data after repair	
10. Records and reports	
(a) Failure to make accurate mechanical interruption summary report	

Violation	Certificate Action
(b) Failure to make available reports of major alterations or repairs	Indefinite suspension to revocation
(c) Failure to make accurate mechanical reliability reports	
(d) Failure to keep maintenance records	
(e) Failure to make required entry in aircraft log	
(f) Failure to make available pilot records	Indefinite suspension to revocation
(g) Failure to make available load manifests	Indefinite suspension to revocation
(h) Failure to monitor and record en route radio communications	
(i) Deliberate violation – intentional false or fraudulent entry, reproduction, or alteration in record or report	Revocation
(j) Deliberate violation – other	180-day suspension to revocation
11. Operation of an unairworthy aircraft	
(a) Technical nonconformity to type certificate, but no likely effect (potential or actual) on safe operation	
(b) Nonconformity which may have, or has, an adverse effect on safety of operation	
(c) Release of aircraft without required equipment	Up to 7-day suspension
12. Provisions specific to passenger carrying	
(a) Boarding or serving alcoholic beverages to a person who appears to be intoxicated	
(b) Failure to brief passengers	
(c) Failure to ensure seat and belt for each passenger	
(d) Operation without operable public address system	
(e) Failure to store baggage properly	
13. Failure to make available a seat on the flight deck for Authority inspectors conducting an en route inspection	
14. Provisions specific to flight deck crew	
(a) Using an unqualified crew member	
(b) Using a crew member with an expired medical certificate	
(c) Flight and duty time violations	
15. Violation of flight dispatch and release	
16. Other provisions	
(a) Improperly returning an aircraft to service	
(b) Illegal carriage of controlled substance with knowledge of carrier, i.e., knowledge of management personnel	Revocation
(c) Use of unqualified personnel other than flight deck crew member	

Violation	Certificate Action
17. Security violations	
(a) Failure to properly screen baggage or each passenger	
(b) Unauthorized access to aerodrome operations area	
(c) Failure to comply with air carrier security programme, including failure to detect weapons, incendiary, and other dangerous devices	
(d) Management personnel coerce, condone, or encourage falsification of records/reports	Revocation
(e) Deliberate failure to maintain employee records	
(f) Failure to challenge	
(g) Failure to test screeners or test equipment	
(h) Failure to properly train	
(i) Unintentional failure to maintain screener test records	
(j) Improper use of dosimeters	
(k) Failure to display identification	
(l) Failure to manage/control identification system	
(m) Failure to conduct background check	
(n) Failure to detect test objects	
(o) Failure to comply with approved or current security programme	
(p) Failure of the law enforcement officer to respond in a timely manner	

Violation	Certificate Action
II. PERSONNEL OF AIR CARRIERS	
1. Maintenance, including inspections	
(a) Performing maintenance without a licence, rating, or authorization	
(b) Performing maintenance that exceeds limitations	30- to 45-day suspension
(c) Failure to perform maintenance properly	30- to 120-day suspension
2. Inspection personnel	
(a) Failure to make required inspection	30- to 60-day suspension
(b) Making improper inspection	30- to 120-day suspension
(c) Improperly releasing an aircraft to service	30- to 60-day suspension
(d) Releasing aircraft for service without required equipment	30- to 60-day suspension
3. Records and reports	
(a) Failure to make entries in aircraft log	15- to 60-day suspension
(b) Failure to make entries in worksheets	15- to 30-day suspension
(c) Failure to make entries in other maintenance records	15- to 30-day suspension
(d) Failure to sign off work or inspection performed	15- to 30-day suspension
(e) Failure to complete and sign maintenance release	15- to 30-day suspension
(f) Intentional falsification of records or reports	Revocation
4. Pre-flight	
(a) Failure to use pre-flight cockpit checklist	30- to 60-day suspension
(b) Failure to check aircraft logs, flight manifests, weather, etc.	30- to 90-day suspension
(c) Failure to make the required inspection	30- to 60-day suspension
(d) Failure to inspect, or improper inspection of, aircraft	15- to 30-day suspension
(e) Failure to ensure seat and belt available for each passenger	30- to 60-day suspension
5. Taxiing	
(a) Failure to adhere to taxi clearance or instruction	30- to 60-day suspension
(b) Collision while taxiing	30- to 180-day suspension
(c) Jet blast	30- to 120-day suspension
(d) Taxiing with passenger standing	30- to 60-day suspension
(e) Taxiing off runway, taxiway or ramp	30- to 90-day suspension

Violation	Certificate Action
6. Take-off	
(a) Take-off against instruction or clearance	60- to 120-day suspension
(b) Take-off below weather minima	60- to 120-day suspension
(c) Take-off in overloaded aircraft (in excess of maximum gross weight)	60- to 120-day suspension
7. En route	
(a) Deviation from clearance or instruction	30- to 90-day suspension
(b) Operating VFR within clouds	90-day suspension to revocation
(c) Operation of unairworthy aircraft	30- to 180-day suspension
(d) Unauthorized departure from flight deck	15- to 30-day suspension
(e) Operating within restricted or prohibited area, or within positive control area with clearance	30- to 90-day suspension
(f) Operating without required equipment	15- to 120-day suspension
(g) Fuel mismanagement/exhaustion	30- to 150-day suspension
(h) Operating contrary to NOTAM	30- to 90-day suspension
(i) Unauthorised manipulation of controls	30- to 90-day suspension
8. Approach to landing	
(a) Deviation from clearance or instruction in terminal area	30- to 90-day suspension
(b) Approach below weather minimums	60- to 120-day suspension
(c) Exceeding speed limitation in airport traffic areas	30- to 60-day suspension
9. Landing	
(a) Landing at wrong airport	90- to 180-day suspension
(b) Deviation from instrument approach procedure	30- to 90-day suspension
(c) Overweight landing	30- to 90-day suspension
(d) Hard landing	15- to 60-day suspension
(e) Short or long landing	30- to 180-day suspension
(f) Wheels-up landing	15- to 90-day suspension
(g) Failure to comply with preferential runway system	15-day suspension
(h) Deviating from clearance or instruction	30- to 90-day suspension
10. Unauthorized admission to flight deck	30- to 90-day suspension
11. Failure to close and lock cockpit door	30-day suspension

Violation	Certificate Action
12. Acting, or attempting to act, as flight crew member while under the influence of liquor or other psychoactive substances, or alcoholic beverage consumption within 8 hours	Emergency revocation
13. Denial of authorized entry to flight deck by credentialed CAA inspector	30- to 60-day suspension
14. Flight and duty time limitations	15- to 90-day suspension
15. Operation without required licence, certificate, or rating	
(a) Medical certificate	30- to 90-day suspension
(b) Lack of type rating	180-day suspension to revocation
(c) Missed proficiency check or line check	30- to 90-day suspension
(d) Lack of current experience, initial or recurrent training	30- to 90-day suspension
(e) Failure to have current medical certificate or licence or authorization in possession	
(f) Operation with known disqualifying physical disability	Revocation
(g) Operation without valid medical certificate when not medically qualified or application for medical certificate deferred	Revocation
16. Failure to keep manual current	30- to 90-day suspension

Violation	Certificate Action
III. INDIVIDUALS AND GENERAL AVIATION – OWNERS, PILOTS, MAINTENANCE PERSONNEL, APPROVED MAINTENANCE ORGANISATIONS, APPROVED TRAINING ORGANISATIONS	
1. Owners and operators other than required crew members	
(a) Failure to comply with Airworthiness Directives	
(b) Failure to perform or improper performance of maintenance, including required maintenance	
(c) Failure to make proper entries in aircraft logs	
(d) Operation of aircraft beyond annual, 100-hour, or progressive inspection	
(e) Operation of unairworthy aircraft	
(f) Intentional falsification of any entry, reproduction, or alteration in any record or report	Revocation

Violation	Certificate Action
2. Aviation maintenance organizations	
(a) Failure to provide adequately for proper servicing, maintenance repairs, and inspection	Indefinite suspension until compliance to revocation
(b) Failure to provide adequate personnel who can perform, supervise, and inspect work for which the station is rated	Indefinite suspension until compliance to revocation
(c) Failure to have enough qualified personnel to keep up with the volume of work	Up to 7-day suspension and thereafter until certificate holder has enough qualified personnel
(d) Failure to maintain records of supervisory and inspection personnel	
(e) Failure to maintain performance records and reports	
(f) Failure to ensure correct calibration of all inspection and test equipment is accomplished at prescribed intervals	
(g) Failure to set forth adequate description of work performed	
(h) Failure of mechanic to make log entries, records, or reports	
(i) Failure to sign or complete maintenance release	
(j) Inspection of work performed and approval for return to service by other than a qualified inspector	Up to 30-day suspension
(k) Failure to have an adequate inspection system that produces satisfactory quality control	Up to 30-day suspension and thereafter until an adequate inspection system is attained.
(l) Maintaining or altering an article for which it is rated, without using required technical data, equipment, or facilities	Up to 30-day suspension
(m) Failure to perform or properly perform maintenance, repairs, alterations, or required inspections	Up to 30-day suspension
(n) Maintaining or altering an airframe, powerplant, propeller, instrument, radio, or accessory for which it is not rated	Suspension or revocation
(o) Failure to report defects or unairworthy conditions to the Authority in a timely manner	
(p) Failure to satisfy housing and facility requirements	
(q) Change of location, housing, or facilities without advance written approval	
(r) Operating as a certificated repair station without a repair station certificate	
(s) Failure to permit Authority to inspect	Indefinite suspension until Authority is permitted to inspect

Violation	Certificate Action
General aviation maintenance personnel	
(a) Failure to revise aircraft data after major repairs or alterations	30- to 60-day suspension
(b) Failure to perform or improper performance of maintenance	30- to 120-day suspension
(c) Failure of mechanic to properly accomplish inspection	30- to 60-day suspension
(d) Failure of mechanic to record inspection	15- to 30-day suspension
(e) Failure of Inspection Authorization holder to properly accomplish inspection	60-day suspension to revocation
(f) Failure of Inspection Authorization holder to record inspection	15- to 30-day suspension
(g) Maintenance performed by person without a certificate	
(h) Maintenance performed by person who exceeded certificate limitations	15- to 60-day suspension
(i) Improper approval for return to service	30- to 120-day suspension
(j) Failure to make maintenance record entries	30- to 60-day suspension
(k) Failure to set forth adequate description of work performed	15- to 30-day suspension
(l) Falsification of maintenance records	Revocation
Student operations	
(a) Carrying passengers	Revocation
(b) Solo flight without endorsement	45- to 90-day suspension
(c) Operation on international flight	60- to 90-day suspension
(d) Use of aircraft in business	30- to 120-day suspension
(e) Operation for compensation or hire	Revocation
Instructors for licences, ratings, authorizations, and endorsement	
(a) False endorsement of a student licence, rating, authorisation, or record	Revocation
(b) Exceeding flight time limitations or other training time limitations	30- to 90-day suspension
(c) Instruction in aircraft, and/or course for which he or she is not rated	60- to 180-day suspension
Operational violations	
(a) Operation without valid airworthiness or registration certificate	
(b) Failure to close flight plan or file arrival notice	

Violation	Certificate Action
(c) Operation without valid pilot licence (no licence issued)	
(d) Operation while pilot licence is suspended	Emergency revocation
(e) Operation without pilot or medical certificate in personal possession	
(f) Operation without valid medical certificate (no medical certificate issued)	Revocation
(g) Operation for compensation or hire without commercial pilot certificate	90-day suspension to revocation
(h) Operation without type or class rating	60- to 120-day suspension
(i) Failure to comply with special conditions of medical certificate	90-day suspension to revocation
(j) Operation with known physical deficiency	90-day suspension to revocation
(k) Failure to obtain pre-flight information	30- to 90-day suspension
(l) Deviation from ATC instruction or clearance	30- to 90-day suspension
(m) Taxiing, take-off, or landing without a clearance where ATC tower is open	30- to 90-day suspension
(n) Failure to maintain radio communications in airport traffic area	30- to 60-day suspension
(o) Failure to comply with airport traffic pattern	30- to 60-day suspension
(p) Operation in terminal control area without or contrary to a clearance	60- to 90-day suspension
(q) Failure to maintain altitude in airport traffic area	30- to 60-day suspension
(r) Exceeding speed limitations in traffic area	30- to 60-day suspension
(s) Operation of unairworthy aircraft	30- to 180-day suspension
(t) Failure to comply with Airworthiness Directives	30- to 180-day suspension
(u) Operation without required instruments and/or equipment	30- to 90-day suspension
(v) Exceeding operating limitations	30- to 90-day suspension
(w) Operation within prohibited or restricted area, or within positive control area	30- to 90-day suspension
(x) Failure to adhere to right-of-way rules	30- to 90-day suspension
(y) Failure to comply with VFR cruising altitudes	30- to 90-day suspension
(z) Failure to maintain required minimum altitudes over structures, persons, or vehicles over:	
i. Congested area	60- to 180-day suspension
ii. Sparsely populated area	30- to 120-day suspension

Violation	Certificate Action
(aa) Failure to maintain radio watch while under IFR	30- to 60-day suspension
(bb) Failure to report compulsory reporting points under IFR	30- to 60-day suspension
(cc) Failure to display position lights	30- to 60-day suspension
(dd) Failure to maintain proper altimeter settings	30- to 60-day suspension
(ee) Weather operations:	
i. Failure to comply with visibility minimums in controlled airspace	60- to 180-day suspension
ii. Failure to comply with visibility minimums outside controlled airspace	30- to 120-day suspension
iii. Failure to comply with distance from clouds requirements in controlled airspace	60- to 180-day suspension
iv. Failure to comply with distance from clouds requirements outside of controlled airspace	30- to 120-day suspension
(ff) Failure to comply with IFR landing minimums	45- to 180-day suspension
(gg) Failure to comply with instrument approach procedures	45- to 180-day suspension
(hh) Careless operations:	
i. Fuel mismanagement/exhaustion	30- to 150-day suspension
ii. Wheels-up landing	30- to 60-day suspension
iii. Short or long landing	30- to 90-day suspension
iv. Landing on or taking off from closed runway	30- to 60-day suspension
v. Landing on or taking off from ramps or other improper areas	30- to 120-day suspension
vi. Taxiing collision	30- to 90-day suspension
vii. Leaving aircraft unattended with motor running	30- to 90-day suspension
viii. Propping aircraft without a qualified person at controls	30- to 90-day suspension
ix. Unauthorized dropping of object from aircraft	30- to 60-day suspension
x. Unauthorized towing	30- to 60-day suspension
xi. Acrobatic flight on airway, over congested area, below minimum altitude, etc.	90- to 180-day suspension
xii. Taking off with insufficient fuel	30- to 150-day suspension
xiii. Operating so as to cause a collision hazard	60- to 180-day suspension

Violation	Certificate Action
xiv. Taxiing aircraft off runway, taxiway, or ramp	30- to 90-day suspension
(ii) Passenger operations	
i. Operation without approved seat or berth and approved safety belt for each person on board the aircraft required to have them during take-off, en route flight, and landing	30- to 60-day suspension
ii. Carrying passengers who are under the influence of drugs or alcohol	60- to 120-day suspension
iii. Performing acrobatics when all passengers are not equipped with approved parachutes	60- to 90-day suspension
iv. Use of unapproved parachute	30- to 60-day suspension
v. Permitting unauthorized parachute jumping	30- to 90-day suspension
vi. Carrying passenger(s) without required recent flight experience	30- to 120-day suspension
7. ID plate violations	
(a) Improper removal, changing or placing of identification information on a product	
i. Inadvertent	
ii. Intentionally misrepresenting identity of product	Revocation
(b) Improper removal or installation of identification place	
i. Inadvertent	
ii. Intentionally misrepresenting identity of product	Revocation
8. Approved Training Organizations	
(a) Knowingly permitting school aircraft to be used for unlawful carriage of controlled substances or other illegal activities	Revocation
(b) Refusal to permit inspection of facilities, equipment, personnel, records, or certificate by the Authority	Indefinite suspension until Authority is permitted to inspect, up to revocation
(c) False advertising	
(d) Improper crediting to or graduation of student	
i. Inadvertent	
ii. Intentional	Revocation
e) Refusal to permit CAA test, check, or examination of student	Indefinite suspension until Authority is permitted to test, check, or examine, up to revocation

Violation	Certificate Action
(f) Unqualified or unauthorized instruction	
(g) Failure to establish or maintain training record	
(h) Failure to carry checklist or operator's handbook	

Violation	Certificate Action
IV. SECURITY AND SAFETY VIOLATIONS BY INDIVIDUALS	
1. Checked baggage	
(a) Failure to declare unloaded firearm	
(b) Loaded firearm	
(c) Incendiary/explosive	
2. Non-passengers: No intent to board	
(a) Possession of firearm (unloaded, unloaded with ammunition accessible, or loaded) or other dangerous or deadly weapon (including stun guns):	
i. At screening point with no aggravating circumstances	
ii. At screening point with aggravating circumstances	
iii. In sterile area with no aggravating circumstances	
iv. In sterile area with aggravating circumstance	
(b) Possession of incendiary/explosive at screening point or in sterile area with no intent to board a flight	
(c) Artful concealment of firearm (loaded or unloaded), other dangerous or deadly weapon (including stun guns), or incendiary/explosive at screening point or in sterile area	
3. Passengers: Intent to board	
(a) Possession of dangerous or deadly weapon (including stun guns, mace, etc., but excluding firearms and incendiary/explosives) that would be accessible in flight in air transportation:	
i. At screening point with no aggravating circumstances	
ii. At screening point with aggravating circumstances	
iii. In sterile area or aboard aircraft with no aggravating circumstances	

Violation	Certificate Action
iv. In sterile area or aboard aircraft with aggravating circumstances	
(b) Possession of firearm that would be accessible in flight in air transportation with firearm unloaded, without accessible ammunition:	
i. At screening point with no aggravating circumstances	
ii. At screening point with aggravating circumstances	
iii. In sterile area or aboard aircraft with no aggravating circumstances	
iv. In sterile area or aboard aircraft with aggravating circumstances	
(c) Possession of firearm that would be accessible in flight in air transportation with firearm loaded, or with accessible ammunition:	
i. At screening point with no aggravating circumstances	
ii. At screening point with aggravating circumstances	
iii. In sterile area or aboard aircraft with no aggravating circumstances	
iv. In sterile area or aboard aircraft with aggravating circumstances	
(d) Artful concealment of dangerous or deadly weapon (including stun guns, but excluding firearms and incendiary/explosives) at screening point, in sterile area, or aboard aircraft	
(e) Possession of incendiary/explosive at screening point, in sterile area, or aboard aircraft that would be accessible in flight in air transportation	
(f) Artful concealment of firearm or incendiary/ explosive at screening point, in sterile area, or aboard aircraft	
4. Other acts	
(a) Entering sterile area after failing to submit to screening – non-aggravated	
(b) Entering sterile area after failing to submit to screening – aggravated	
(c) Imparting or conveying false information concerning an attempt to do an act that would be a crime prohibited by § 702 of the Civil Aviation Safety Law	

Violation	Certificate Action
(d) Threatening overt act or other intent to use or dangerously display firearm, incendiary/explosive, or other deadly or dangerous weapon (including stun guns)	
(e) Violation of the Civil Aviation Safety Law	

Violation	Certificate Action
4. Special emphasis enforcement – individuals aiming laser beam at aircraft	
(a) Single, first-time, inadvertent or non-deliberate violation by individual	
(b) Deliberate violation by an individual not holding an airman certificate	
(c) Deliberate violation by an airman certificate holder, regardless of whether airman was exercising the privileges of his or her certificate at the time of the violation	Revocation
7. Falsification	
(a) Intentionally false or fraudulent entry, reproduction, or alteration on an application or a licence or certificate or rating or approval	Revocation of authorized certificates
8. Miscellaneous	
(a) Carriage of illegal substances on aircraft	Revocation
(b) Conducting operation without required operating certificate	60 to 120-day suspension
(c) Misuse of an aerodrome-approved identification medium	
(d) Making an incorrect statement on an application for a personnel licence or medical certificate	Indefinite suspension (pending correction of application and determination of qualification) or revocation of personnel licence or medical certificate
(e) Refusal to produce personal licence and/or associated medical certificate	30-day suspension, and until produced to revocation

Violation	Certificate Action
V. AIRCRAFT OWNER/OPERATOR REGISTRATION VIOLATIONS	
(a) Operation of an unregistered aircraft	30- to 90-day suspension of pilot licence
(b) Operation of an aircraft without an effective and valid Certificate of Aircraft Registration on board	30- to 90-day suspension of pilot certificate
(c) Failure to return an ineffective or invalid Certificate of Aircraft Registration	Revoke Certificate of Aircraft Registration
(d) Use of registered aircraft to carry out or facilitate unlawful activities	Mandatory revocation of Certificate of Aircraft Registration and of all other certificates of aircraft registration issued to its owner, and revocation of all personnel licences and medical certificate

Violation	Certificate Action
VI. ALL INDIVIDUALS AND ENTITIES	
(a) Failure to surrender suspended or revoked licence, authorization or other approval, or medical certificate	

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