



CIVIL AVIATION AUTHORITY OF SRI LANKA

Aviation Enforcement Policy and Procedures Manual

2018 - Edition

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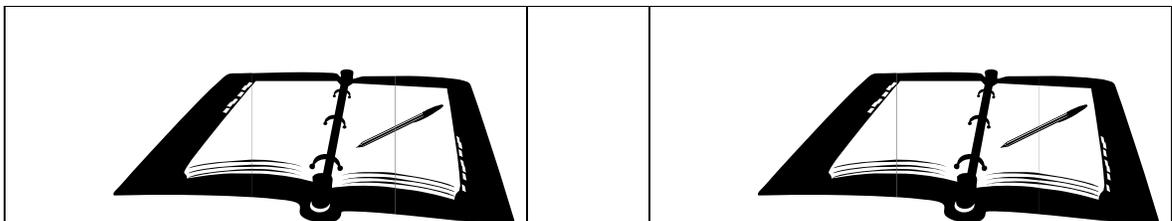
Issued under the authority of the Director General of Civil Aviation



CIVIL AVIATION AUTHORITY OF SRI LANKA

DIRECTION AND MANAGEMENT

LIST OF GUIDANCE MATERIAL ISSUED BY LEGAL AFFAIRS
AND ENFORCEMENT UNIT





Civil Aviation Authority of Sri Lanka

Aviation Enforcement Policy and Procedures Manual

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FOREWORD

The Aviation Enforcement Policy and Procedures Manual provide details and guidance to CAASL Inspectors on the existing enforcement tools available to the CAASL and the circumstances under which the enforcement tools should be used. To be effective, the CAASL's enforcement procedures must be fair, reasonable, transparent and consistent, and be perceived as being fair by those subject to regulatory control. This does not, and should not; imply an unwillingness to apply the full force of statutory sanctions as and where warranted. It does the right of a person to objective, even handed consideration of all the circumstances surrounding any breach or compromise, before action is taken. It also requires CAASL Inspectors to make every effort to understand a person's position and take into account, as well as to let the person know the CAASL's position. There should not be a rigid adherence to precedent without due regard to the circumstances.

Compliance and enforcement actions need to be applied as consistently as possible. However, CAASL Inspectors must consider each case individually in order to determine an appropriate compliance or enforcement action. They should feel free to recommend actions that, in their professional judgment, will appropriately serve the purposes of the CAASL's safety mandate. It is essential that the CAASL's compliance and enforcement program be conducted in as fair as possible. 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 compliance or enforcement action and sanction.

Many factors must be 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 the various factors must often be left to the discretion of the individual inspector. The material in this Manual will provide inspectors with guidance in the proper exercise of that discretion. The success of the enforcement program set out in this Manual will depend on the good judgment of Inspectors who are able to:

- ✘ Earn the respect of the aviation community rather than expecting it merely by virtue of their office.
- ✘ Ensure existence of level of playing field for all operators so that intentional violations of requirements for economic reasons would be mitigated.
- ✘ Exercise objectivity and sensible 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 published requirements are fairly and equally enforced and that all persons and corporations are treated equally under the rules.

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- ✘ Recommend or take effective enforcement action in the case of breaches of civil aviation rules; particularly when such breaches are deliberate, in order to protect the safety of air navigation.

It should be reiterated that enforcement action will not be taken for errors or omissions but for violations. When errors and omissions are detected, they shall be addressed through the SMS principles and procedures.

Enforcement action shall be taken against any person/organization which make violations habitually and they shall be pursued further through litigation process, if the violations are of grave concern to flight safety and/or recurring nature.

H.M.C.Nimalsiri
Director General of Civil Aviation and
Chief Executive Officer

01.04.2018

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DEFINITIONS & ABBREVIATIONS

"Criminal Activity" - is any act that is illegal under the Criminal Procedure Code of Sri Lanka

And is clearly outside the scope of responsibility of CAASL Sri Lanka

"Joint Covert inspection" - is a covert inspection involving Civil Aviation officials in cooperation with another agency.

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

"CAASL Aviation Document Holder" means a person or organization holding a Licence, Certificate, Approval, Rating, Permit or Authorization issued either by Civil Aviation Authority of Sri Lanka or Director General of Civil Aviation as the case may be in terms of a provision either in the primary or subsidiary legislation to engage in any aviation activity in Sri Lanka.

"Civil Aviation Act" means the Civil Aviation Act No. 14 of 2010

"Subsidiary Legislation" means Regulation, Rules, Order, Directives, Directions, and Implementing Standards issued un the Civil Aviation Act or Civil Aviation Authority of Sri Lanka Act No. 34 of 2002 or Air Navigation Act No. 15 of 1950, which are in force.

"DGCA" means Director General of Civil Aviation of Sri Lanka

"CAASL" means Civil Aviation Authority of Sri Lanka

Chapter 1: General

1.1 Introduction

1.1.1 Manual Objectives

The objectives of this manual are to provide;

- a) The CAASL’s enforcement policy and procedures
- b) A description of the roles and responsibilities of CAASL Inspectors
- c) A description of the enforcement tools available
- d) A description of the aids to enforcement
- e) Guidelines and procedures for:
 - ✘ Appropriate use of enforcement tools
 - ✘ Reporting enforcement
 - ✘ Recording enforcement
 - ✘ Collecting and handling evidence
 - ✘ Investigations by inspectors
 - ✘ Gaining access
 - ✘ Note taking and interviewing
 - ✘ Detaining aircraft
- f) Precedent Documents

1.1.2 Target Audience

The target audience or beneficiary of the Enforcement Manual is CAASL Inspectors

1.1.3 Manual Amendment Process

1.1.3.1 Office of Legal Affairs and Enforcement Unit

CAASL shall be the Office of Legal Affairs and Enforcement Unit (LAE) for this Manual. All amendments to this Manual shall be issued by LAE under the process and responsibilities for amendment of Enforcement Policy and Procedures Manual as provided in section 1.3.2.

This Manual will be amended as required; however, from time to time Enforcement policies will be revised or modified. These revisions will be presented in the form of an Aviation Enforcement Policy Letter (AEPL). The content and format of AEPLs is contained in AEPL No. 1. AEPLs will supersede the related policy as stated in this Manual. The LAE will issue an appropriate amendment to this Manual as soon as practical after an AEPL has been issued. Responsibilities for this Manual

DGCA	• Sponsors the manual
------	-----------------------



	<ul style="list-style-type: none">• Considers suggested amendment to the manual and of final decision on inclusion of amendments on his own or as recommended by DDG/FSR or DDG/ASR
DDG/FSR DDG/ASR	<ul style="list-style-type: none">• Considers the suggested amendment for its validity• Either sends to DGCA for approval with his recommendations or returns suggested amendment to the concerned Directorate/ Person with comments
M-LAE	<ul style="list-style-type: none">• Vets the proposed amendment with reference to rules and
D(ARAW) /D(OPS)/ D(ATPL)/ D(ANS)/ D(AGA)	<ul style="list-style-type: none">• Recommend the amendment in their area of responsibility and send it to DDG/FSR OR DDG/ASR after having it vetted by M-LAE
CAASL Inspectors (Review Team)	<ul style="list-style-type: none">• Suggest changes that would improve the efficiency and effectiveness of procedures.• Review the amendment in accordance with CAASL Rules, Regulations or established Procedures.• Forwards the vetted draft to DDG/FSR OR DDG/ASR• When Approved by DGCA, arranges for incorporation in accordance with CAASL document control procedures• Monitors compliance with procedures and gives feedback

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Chapter 2: Policy Overview

2.1 General

The Aviation enforcement program plays a vital role in the discharge of State’s responsibility for the conduct of Safety Oversight of the operators functioning under its jurisdiction and promotes the goal of improved aviation safety by encouraging voluntary compliance with and through the enforcement of Sri Lankan aeronautics legislation. When necessary, the CAASL will initiate investigation of alleged violations of this legislation or any published requirement made there under.

2.1.1 State Obligation

Being a contracting State to Convention on International Civil Aviation and a member of the International Civil Aviation Organization (ICAO), Sri Lankan Government has an obligation to oversee the safe and efficient operation of aviation activity for which Sri Lankan Government is responsible. Further, as a signatory to the ICAO Convention on International Civil Aviation, Sri Lanka has agreed to the application of Article 12 of the Convention, “Rules of the air,” which states in part:

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

This is Enforcement and sanctioning powers, provided by the legal framework on the CAASL, are delegated to the CAASL’s inspectors who have the responsibility and authority to inspect and conduct investigations, depending on the nature and extent of such provisions in the legislations.

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

2.1.2 Voluntary Compliance

CAASL is of the firm belief that every person holding an aviation document issued by the Civil Aviation Authority after undergoing the initial entry certification process will commit himself, in exercising the authority of such documents, to abide the applicable rules, procedures and best industry practices and work within such parameters ensuring safety. It also recognizes that voluntary compliance with the 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

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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 civil aviation rules and published requirements may occur for many different reasons, from a genuine or innocent misunderstanding of that rule, to a blatant disregard for aviation safety. The CAASL has a range of enforcement tools in order to effectively address its safety obligations in light of differing circumstances. These tools are;

1. Counseling
2. Remedial training
3. Issuing warning
4. Imposing conditions limitation on CAASL Aviation Documents
5. Notices of Penalty including all possible deterrent actions
6. Monetary penalties
7. Variation, suspension and cancellation of authorizations
8. Recommendation for compulsory leave
9. 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 CAASL's enforcement will be to address safety by consistent and appropriate inspection, audits and thereby evaluating the safety risks which needs to be addressed to ensure safe operation of aircraft.

2.1.3 Enforcement Policy

The 'Public Trust Doctrine' is based on the concept that the powers held by Government organizations are, in fact, powers that originate with the people, and are entrusted to the government organizations only as a means of exercising governance and with the sole objective that such powers will be exercised in good faith for the benefit of the people.

Public power is not for personal gains or favor but always to be used to minimize harm or hazards and optimize the benefits to the People. To do otherwise would be to the objectives of this doctrine and betray the trust reposed by the people within whom, the sovereignty rests. Powers exercised contrary to the Public Trust Doctrine would amount to abuse of powers and in contravene the Rule of Law.

The aim of Aviation Enforcement System advocated in this document is to lead the aviation community in Sri Lanka with a world-class air safety environment, which has public trust and confidence. To achieve trust and confidence from the aviation industry and the members of the public including air commuters the CAASL must react appropriately and timely to intentional breaches or neglect of the Civil Aviation Act and the regulation made there in these provide for :

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1. A range of enforcement tools to match the regulatory action to the seriousness of the breach **refer annex 01** for Table of sanctions
2. Accountability by CAASL for making of its decisions.
3. Impartiality in decision by making some of CAASL's powers subject to an Order of a court, CAASL will appoint an independent officer or committee to make enforcement decision based on the information received through inspectors and other means,

While facilitating the aviation industry in its objectives of growth, of service to the community and so forth, also providing the CAASL a balanced and very measured capacity to make decisions necessary to enhance aviation safety.

These principles must be accompanied by explicit benchmarks and a capacity within CAASL to demonstrate in a measurable and accountable way how they will be met. The CAASL's enforcement policy determines the way the CAASL uses its authority to regulate the aviation industry in the State. With limited resources, CAASL must ensure that it gives proper focus to the exercise of these powers and adequate measures are in place to give effect to the rules of the law.

Also a consistent and systematic enforcement process will enable the CAASL to develop confidence level of the operators' compliance with the governing rules, which of course would be at varying degree. Gathering and maintaining systematic record of an operator's compliance with the applicable rules, regulations and approved procedures will not only help CAASL to make an opinion or perception of the track record of the operator's behavior, but also will be a good method of persuading the operator to exercise caution in the conduct of operations to maintain a good name. For this purpose, assigning appropriate in appropriate colour for the non-compliance will be given for the determination of a deterrent action.

2.1.4 Fairness and Firmness

The CAASL is committed to enforcing the 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 CAASL promotes and applies a policy of fairness and firmness by;

1. Encouraging open communication between alleged offenders and enforcement officer or committee, especially in cases where there are will be possible mitigating circumstances;
2. Providing oral counseling for minor violations or deviation from the requirements where there is no threat to aviation safety;
3. Informing offenders of their right to have penalties reviewed/ by the Secretary to the Ministry of Minister ([section 115 of the Civil Aviation Act](#)); and

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4. Ensuring that repeat offenders and those who willfully disregard aviation safety are dealt with firmly and CAASL track records are appropriately updated facilitating creation of an overall impression of the operator

The Enforcement Manual describes the circumstances in which the enforcement can or must be used to deal with an identified breach of the Civil Aviation Rules, Regulations, Implementing Standards 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

1. **Natural Justice and Accountability:** Enforcement decisions must be:
 - ❖ Fair, and follow due process
 - ❖ Transparent to those involved
 - ❖ Consistent between similar circumstances
 - ❖ Subject to appropriate internal and internal and external review
2. **Impartiality:** Enforcement decisions must not be influenced by:
 - ❖ Personal conflict or agendas of CAASL inspectors.
 - ❖ Irrelevant considerations (such as gender, race, religion, political views or affiliation), or
 - ❖ The personal, political or financial power of those involved.
3. **Proportionality:** Enforcement decisions must be proportional responses to the identified breaches and the safety risk they give rise to in particular
 - ❖ The CAASL's first priority is to protect the safety of the members of the public including fare-paying passengers:
 - ❖ The CAASL will take strong action against those who consistently and deliberately operate outside the Civil Aviation Rules, Regulations, Requirements or approved Procedures:
 - ❖ The CAASL will seek to educate and promote training or supervision of those who are observed to be lacking proficiency but have willingness to comply with the Civil Aviation Rules, Regulations, Requirements or approved Procedures,
 - ❖ The CAASL will prefer the use of the administrative action as per the rule number 13.1.1 of the Enforcement Manual when dealing with private pilots who breach the Rules, Regulations and published Requirements.

2.1.5 Conflict of Interest

Inspectors must take measures to prevent real, potential, or perceived conflicts of interest in accordance with the principles of conduct and measures in the General guidelines to the CAASL Inspectors.

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

2.1.6 Handling of Complaints

A complaint is a formal expression of dissatisfaction with a Civil Aviation service, procedure, application of policy, or staff member. Complaints concerning Civil Aviation personnel shall be handled in accordance with Manual of Rules of Disciplinary Procedures SLCAP5050.

2.1.7 Accessibility of CAASL officials

CAASL Officials will be accessible to members of the public to explain the Enforcement policy process. In situation when members of the public needs to interact with the CAASL officials in regard to enforcement action, they may contact the Manager, Legal Affairs and Enforcement action on the phone numbers and email address given in the CAASL official website.

2.1.8 Application of the Manual

The content of this Manual shall be applicable and be used to the extent possible, with appropriate adjustments being made with the approval of the DGCA to suit the particular situation, where necessary, in respect of the following situations.

1. In the event that sufficient evidence exists that a holder of a holder of Licence/Certificate for operation of aircraft, aerodrome, maintenance organization, flying training organization, any training organization, aeronautical services has not performed his/her duties in accordance with the prescribed procedures and privileges of the licence/certificate
2. in the event that sufficient evidence exists to demonstrate that a pilot licence holder has not performed his/her duties in accordance with the prescribed procedures and privileges of his/her licence.
3. in case of a false declaration by an applicant for Medical Certificate to a designated medical examiner (DME) is made. (In these cases, Enforcement Action by CAASL would be difficult if the applicant is not an Aviation Document Holder. Such cases shall be referred to Sri Lanka Police to be dealt with under Penal Code for making false declaration to a public office)
4. in the event that sufficient evidence exists to demonstrate that a designated medical examiner (DME) has not performed his/her duties in accordance with the prescribed procedures.
5. in the event that sufficient evidence exists to demonstrate that a practical or flight examiner has not performed his/her duties in accordance with the prescribed procedures.
6. in the event that sufficient evidence exists to demonstrate that a training organization has not performed its function according to its procedures manual.
7. in the event that sufficient evidence exists to demonstrate that an aircraft maintenance technician/engineer/mechanic has not performed his/her duties in accordance with the prescribed procedures and privileges of his/her licence



8. in the event that sufficient evidence exists to demonstrate that an air traffic controller has not performed his/her duties in accordance with the prescribed procedures and privileges of his/her licence
9. To deal with deficiencies or situations related to conduct of delegated tasks where the CAASL has delegated its inspection or supervision responsibilities (such as competency checks, route checks, instrument ratings checks, conversion checks or upgrading checks) to designated inspectors and/or examiners of an AOC holder issued by DGCA.
10. in case deficiencies or deviations are identified in an FRMS when air operators have been authorized to use Fatigue Risk Management System (FRMS).
11. in case of violation/deviations of applicable requirements relating to transport of dangerous goods by authorized personnel and for timely resolutions of such deviations
12. in the event that the deficiencies identified during the conduct of inspections are not rectified in a timely manner.
13. to track identified deficiencies, to evaluate corrective actions presented by air operators and/or AMOs and to take appropriate actions, up to and including enforcement measures, to resolve identified deficiencies and safety issues in a timely manner.
14. when deficiencies are identified during the conduct of ramp inspections that indicate serious safety deficiencies/concerns, to preserve safety.
15. to initiate a special evaluation or impose special operational restrictions if information obtained from reliability monitoring indicates a degraded level of safety.
16. for timely enforcement action involving up air traffic incidents including elimination of the deficiencies.
17. for timely enforcement action involving deficiencies identified by PANS-OPS inspectors including elimination of the deficiencies.
18. for timely enforcement action involving deficiencies identified by AIS including elimination of the deficiencies
19. for timely enforcement action involving deficiencies identified by cartographic inspectors including elimination of the deficiencies.
20. for timely enforcement action involving deficiencies identified by CNS inspectors including elimination of the deficiencies.
21. for timely enforcement action involving deficiencies identified by Aeronautical Meteorological inspectors including elimination of the deficiencies.
22. for timely enforcement action involving deficiencies identified by Aeronautical Search and Rescue inspectors including elimination of the deficiencies.
23. if deficiencies found during surveillance activities are not rectified within a reasonable time by the aerodrome operator.

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Chapter 3: Responsibilities

3.1 Delegation of Authority

Only officers/persons with valid and current delegation to exercise powers issued by the DGCA under legal provisions made under the Civil Aviation Authority Act No 34 of 2002, Civil Aviation Act No.14 of 2010 or Air Navigation Regulations of 1955 may exercise the authorities, within the confines of instrument of authorization. These authorities are delegated by the DGCA through the issuance of official credentials together with delegation notes for inspectors and powers to the enforcement officer/committee.

A complete list of the nature and scope of delegated authority to CAASL inspectors is maintained in the Human Resources and Office Management Section of the CAASL.

3.1.1 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 mode and manner in which he or she will exercise a power, he or she is not subject to specific direction in relation to any particular decision. For example, a delegate cannot be directed to issue, or not to issue, a license or certificate to a particular person. It is the delegate's personal judgment and belief that is relevant to the question of whether or not the grounds for the proposed action are sound. It is also simply not a defence afforded to State institutions. The responsibilities of a delegate may be specified specifically or in point form.

3.1.2 CAASL Inspectors

Without limiting the sorts of tasks which inspectors may be asked to perform in relation to variation, suspension or cancellation action, it is the responsibility of technical and operational officers (usually those in the field) to

1. Gather or receive the information and evidence, which supports a recommendation for an action
2. As necessary, seek advice and input from DGCA ,HoD or HoS in relation to the conduct of the operator/person in question
3. Complete a non-compliance report and forward it to the appropriate
4. Send a memo to Deputy Director General / Director recommending a proposed course of action
5. Draft in consultation with the Manager Legal Affairs and Enforcement where applicable the relevant notice to the operator/ person affected by the decision
6. Prepare for and attend any show cause conference taken up by the operator or person affected by the decision
7. As necessary, assist Divisional/Sectional heads by providing information.
8. Serve or arrange for the service of the relevant notice to the person affected.

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9. Take any follow-up action that may be necessary (including the provision of technical and operational assistance to the Manager, Legal Affairs and Enforcement action in any administrative law litigation).
10. Update the CAASL track records in regard to the operator's allegiance with regulatory requirements.

3.1.3 Responsibilities of the Manager, Legal Affairs and Enforcement (M/LAE)

It is the responsibility of the M/LAE to

1. Provide legal advice to officers and the delegate in relation to actual or proposed variation, suspension or cancellation action, or any part of the process;
2. Assist officers in the preparation of show cause and decision notices, in accordance with Rules and Regulations;
3. Conduct, or arrange for the conduct of, administrative process of law litigation arising out of variation, suspension and cancellation decisions,
4. Keep HoD and HoS advised of the progress and results of any civil court or administrative proceedings, and
5. Represent CAASL in any proceedings before the Court of justice or any similar body, where the CAAs decisions have been challenged.

3.1.4 Responsibilities of HoD and HoS

All the Deputy Directors General and Directors within CAASL are the senior delegates and are responsible to:

1. Ensure that their directorate is organized, staffed and equipped to perform the assigned functions and duties as required by the CARs or ANR and the DGCA.
2. Amend the administrative procedures of the Inspectors in order to ensure their smooth and efficient functioning.
3. Programme the safety oversight activities as per the guidelines laid down in Inspectors Hand Book manual.
4. Supervise the safety oversight activities of the Inspectors.
5. Liaise with the operators to ensure smooth and efficient execution of the safety oversight functions which includes inspections.
6. Ensure that the safety oversight activities conform to rules regulations and procedures lay down by the CAASL.
7. Submit periodic and other analytic reports to the DGCA of the results of the inspections.
8. Ensure that the Inspectors carry out refresher training as par as possible
9. Ensure that Inspectors hold credentials, necessary authorizations and provided with handbook, checklists and all the tools and amenities needed.
10. Liaise with the other Directorates of the CAASL and provide them with specialized advice on all operational matters. The expertise of Inspectors is to be used liberally for carrying out of oversight activities.
11. Advise the DGCA on all matters relevant to air safety and help in investigation of accidents / incidents involving aircraft.

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12. Keep the DGCA informed of all important activities of their Directorate.
13. Ensure that the objectives of the Inspections are met and that the system of inspection is optimized and institutionalized. Updating of the system to meet the changing situations is an imperative that must be pursued.
14. Update CAASL records about the operator's allegiance with the compliance of applicable requirements
15. Ensure that the inspection reports are sent to the service providers with the recommendation for corrective action on time frame and follow up action being taken by the inspectors.

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Chapter 4: Inspection

4.1 Inspection – General

Inspection which is a key part of State’s Safety Oversight function, involves the examination and observation of operator’s actual performance, aviation documents, aircraft, cargo, premises, aeronautical products such as appliances, parts and components and facilities relating to aeronautics, aircraft maintenance facilities, airlines operation and air transport providers operations. The purpose of inspection is to determine whether compliance with regulations and standards **are** being maintained, in relation to the approved provisions in the Operator’s Manual or any other approved provisions. The inspection activities performed by the CAASL Inspectors includes but not limited to the following

1. Civil Aviation Inspectors in charge of the subject of Aircraft Operations, conducting company(Airline /Commercial) inspections, audits and flight tests;
2. Civil Aviation Inspectors in charge of the subject of Personnel Licensing, conducting examinations and flight tests of pilot licence applicants and instructors and performing inspections and audits of flying schools and clubs;
3. Civil Aviation Inspectors in charge of the subject of Aircraft Registration and Airworthiness conducting audits and inspection **of** aircraft; and Aircraft Maintenance, Repair and Overhaul Organizations,
4. Civil Aviation Inspectors in charge of the subject of Aerodromes carrying out inspection of aerodrome service providers facilities, services,
5. Civil Aviation Inspector in charge of the subject of Air Navigation conducting inspection and surveillance of communication of aeronautical information, navigation and surveillance or aeronautical service providers.
6. Civil Aviation General Inspector’s conducting inspection and audit on air transport provider’s activities, collection and remittance of Embarkation Levy and collection and remittance of Over Seas Sales Surcharge.
7. Other inspections and audits which cover any other aviation activities in Sri Lanka.

4.1.1 Inspection Authority

An inspection conducted by inspectors pursuant to the authority allowed by [Section 36 of the Civil Aviation Act](#) enables to carry out inspection on aircraft and [Section 113](#) enables the other inspection description by the Delegation of Authority issued by the DGCA. Depending upon their particular duties, inspectors may be delegated all or some of the following powers of the DGCA to inspect.

4.1.2 Access for Inspection

Aircraft, aerodromes, facilities, premises or documents which includes hard and soft copies.

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An inspector's authority to enter aircraft, aerodromes facilities, premises or documents for the purpose of making inspections is found in [Section 36, 37 and 113 of the Civil Aviation Act](#). This is not only the authority to enter, but is also deemed to be authority for conducting an inspection.

4.1.3 Production of Documents

The authority to demand the production of documents in accordance to the [Section 36 and 113 of the Civil Aviation Act](#).

4.1.4 Seizure of Evidence

[Section 116 of the Civil Aviation Act](#) gives the power to the authorized inspectors to seize anything found in any place entered for the purposes of inspection if they believe on reasonable grounds that 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.

4.1.5 Obstruction for inspection

Any person willfully obstructing or impeding an inspector during an inspection contravenes to the [Sub section \(c\) of the Section 103 of the Civil Aviation Act](#) and will be viewed as a serious offence and one that will be pursued vigorously. In such an instances the person or body of person will be penalized as per the Chapter 14 of this Manual.

4.1.6 Powers on Maintenance of Aviation Safety

Subject to provisions in the Instrument of Delegation issued by DGCA, every inspector is delegated the authority to exercise the following powers for maintaining aviation safety when encountering a situation where there is an imminent concern for aviation safety:

4.1.6.1 Detention of Aircraft

The authority for detention is found in [Section 38 of the Civil Aviation Act](#). DGCA may detain any aircraft which he believes on reasonable grounds is unsafe or is likely to be operated in an unsafe manner, and takes reasonable steps to ensure its continued detention. Once the grounds for detention (e.g. unsafe condition) have been removed, the aircraft must be released. (Refer Annex-02 for Detention Notice)

4.1.6.2 Variation Suspension and Cancellation of CAASL Aviation Documents on the Grounds of an Immediate Threat to Safety

Inspectors may vary, suspend or cancel a CAASL Aviation Document 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 Section 26, 44, sub Section (4) of the Section 51, 67, sub Section (2) of the Section 76, sub Section (2) of the Section 90, 91, sub Section (2) of Section 98, sub Section (5) of the Section 102 and sub Section (1) of the Section 109 of the Civil Aviation Act.

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 document.

4.1.7 Inspection Procedure

When conducting routine inspections for the purpose of determining compliance, inspectors shall observe the following procedures:

1. Inspectors shall not enter aircraft or premises which are locked or where the owner/operator or appointed representative is not present;
2. An inspection should be conducted at a time that minimizes the inconvenience to flight crew, owner/operator and the travelling public;
3. Inspectors shall use a credential card for personal identification. They should also wear inspector's uniform with luminous color over coat (especially at airport or accident sites) and the access permit, where applicable
4. The flight crew and owner/operator of an aircraft should be informed of the inspection. Notifying the Pilot-in-Command or Station Manager is considered sufficient for this purpose. This can be done either by phone or by having met them in the aircraft;
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. Inspectors may seize relevant and appropriate evidence with respect to a contravention discovered during the course of a routine inspection.
8. In an unsafe situation is discovered **as per the Section 37 of the Civil Aviation Act**, the Pilot-in-Command or aircraft representative shall be informed and the inspector shall decide whether or not immediate detention of the aircraft is required.
9. Inspections should be completely documented with notes recorded sequentially in the Inspector's Handbook including dates and times;
10. It is advised that result of every inspection is communicated to the operator in writing and in the event finding of Category 1, 2 or 3 are detected they shall be informed to the operators in writing. Category 2 and 3 findings shall be reported to the State of the Operator / State of Registry as may be applicable and
11. In the event of any obstruction to an inspection, the inspector should politely inform the individual of the purpose of the inspection, the authority granted for performing the inspection, and that the individual is obstructing the conduct of



this inspection. If this does not gain cooperation, state that obstruction is an offence, and that a charge as per 4.2.4. could be laid under the [Section 103 \(c\) of the Civil Aviation Act for obstructing an inspection.](#)

12. Should the individual continue to obstruct the inspection, the inspection should be abandoned and legal assistance sought for the laying of charges under [Section 103 \(c\) of the Civil Aviation Act \(Refer chapter 14 for sanction\).](#)
13. Where an 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 DGCA for acquisition of a Search Warrant and for conduct of an investigation. Under such circumstances, the inspector ceases the act of inspection and commences the act of investigation and Inspections should be completely documented with notes recorded sequentially in the Inspector's Handbook including dates and times.
14. In the inspection procedures the following steps will also included ,
 - ✗ Preparation of Checklist (High Level questions drawing from the regulations and Low level question for collecting evidence)
 - ✗ Inspection report with recommended corrective action by giving the time frame for corrective action,
 - ✗ Responses receiving from the CAASL Aviation Document holders and reviewing the corrective action taken,
 - ✗ Follow-up action for verification of corrective action taken,
 - ✗ If the corrective action not taken refer the matter to HoS for enforcement action.

4.1.8 Seizure, Retention and Return of Evidence

In accordance with the provision in [the Section 98 of the Civil Aviation Act](#) where evidence is seized, the inspector shall ensure:

1. The holder is given a 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 is seized, a Temporary Aircraft Journey Log can be issued. The temporary log must contain a statement that the original has been seized. Alternately, a photocopy of the log book properly identified as a certified true copy and signed by the owner, the inspector or the investigator is acceptable. The original is preferred in a court of law but a certified photocopy may be acceptable. Before making a photocopy, the original should be marked in a uniquely identifiable manner to preclude alteration or substitution; and
6. The evidence is returned (after carefully examined the following)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 and the acknowledgement mentioned above be withdrawn;

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- ❖ There is no dispute as to who is lawfully entitled to it;
- ❖ Return is not likely to affect aviation safety; and
- ❖ It is no longer required.

4.1.9 Detention and Return of Aircraft

When inspectors contemplate the detention of an aircraft they must, if possible, introduce themselves to the pilot-in-command or owner/operator 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-in-command or owner/operator of 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-in-command or owner/operator is unavailable or indicates an unwillingness to comply with the inspector's advice, attach to that part of the aircraft most likely to be seen by the flight crew a written notice of detention specifying the unsafe condition or operation;
3. If necessary, restrain the movements of the aircraft :
 - By requesting ATS deny taxi and take-off clearances;
 - By blocking it with vehicles;
 - By attaching it to an immovable object; or,
 - 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 the [Section 37 and 38 of the Civil Aviation Act](#) 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 DGCA. 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 — General

The most effective method of performing State's Safety Oversight functions and enhancing safety within the aviation community is to provide a regulatory presence wherever possible, aiming at promoting voluntary compliance with the **Primary and Subsidiary Legislations**. These aims can best be achieved by CAASL inspectors participating in structured surveillance activities. Surveillance may be either routine or special-purpose.

The purpose of surveillance is to provide a regulatory presence to promote voluntary compliance and reveal contraventions of aviation 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.

5.1.1 Field Operations

5.1.1.1 Routine Surveillance

Routine surveillance, which includes surveys, audits, base inspections, CAASL Aviation Document renewal inspections, general inspection and ramp inspection, is conducted during the normal course of the Civil Aviation Inspections for monitoring day-to-day Civil Aviation Activity. When contraventions of regulations are detected, inspectors are responsible for completing a detection notice (**Refer Annex 03**) of this manual for submission to the person or body of person concern. These forms, collated and analyzed at the Field, may reveal problems, trends or threats to aviation safety. Accordingly, this information can often provide the impetus for planned surveillance.

Routine surveillance may be discreet. Discreet surveillance is conducted when an inspector does not publicize or hide the fact that he or she is a Civil Aviation Inspector attached to the CAASL. No special authorization is required for this type of activity, unless it is connected with aviation security matters. Whether an inspection is overt or covert, the Inspector has the same authority and responsibility in dealing with the findings or detections.

5.1.1.2 Special-purpose Surveillance

Overt or covert surveillance is directed at specific areas, events and activities by Civil Aviation inspectors in support of surveillance operations. Most surveillance done by inspectors is of an overt nature; that is, undisguised and designed to deter regulatory infractions and encourage compliance through a visible presence in CAASL inspector uniforms as much as it is designed to detect non compliances. There are, however, instances when covert surveillance may be appropriate or necessary to gather evidence, to detect willful non compliances of operators. (**See Chapter 09**)



5.1.2 Planned Surveillance

Planned surveillance is directed at specific areas, events and activities by Civil Aviation Inspectors in support of a surveillance plan which is pre-determined and approved by the DGCA

5.1.2.1 Objectives of Surveillance

The following objectives may be considered when planning surveillance activities:

1. The promotion of compliance by the establishment of regulatory presence;
2. The detection of contraventions;
3. Promotional and educational activities;
4. Liaison with detection sources;
5. Information gathering; and
6. Targeted surveillance.

5.1.2.2 Plan Responsibility

The HoD and HoS are responsible for the development and administration of the safety oversight surveillance plan in their area of responsibilities.

5.1.2.3 Implementation

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

5.1.2.4 Presence

1. Surveillance should be carried out whenever and wherever Civil Aviation Activity is most likely, including nights, weekends and evenings in peak hours. It should be to the extent possible cover a cross-section of all modes of operations taking place in the respective field so that CAASL has a good sampling of the entire population of the aviation activities
2. It should be ensured that each surveillance team is composed of inspectors whose specialty is pertinent to the type of surveillance activity.
3. It should be ensured that each surveillance team is qualified, duly authorized, appropriately attired (in inspector uniforms) and is properly briefed for the operation.
4. CAASL Trainee Inspectors may also take part at the inspections as observers.
5. The Trainees performing OJT may perform inspection and responsibility for such inspections shall rest with the inspector under whom such OJT is conducted.

5.1.3 Surveillance

Surveillance should generally be carried out overtly. By introducing themselves to the public, inspectors in CAASL uniforms will be able to maximize the promotion of voluntary compliance. An inspector shall always inform the Licence holder prior to commencement of the inspection.

Covert operations may be used when there are reasonable grounds to suspect an open presence may not culminate in a successful investigation.



5.1.3.1 Initial Violation Process

Inspectors shall ensure the initial violation process is completed thoroughly when new infractions are detected.

5.1.4 Monitoring of Special Aviation Events

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

5.1.5 Surveillance Procedure

1. Extensive written notes should be kept of all observations.
2. Inspectors should make use of the CAASL Inspector Handbook or similar document provided by the CAASL for this purpose.
3. Where appropriate, photographs or any other written evidence that could be help to reach the opinion should also be taken.
4. Inspectors should be prepared to use authority pursuant to [Section 37 Civil Aviation Act](#) in detaining aircraft proceeding in a condition unsafe for flight.

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.

5.1.6 Reporting

1. At the conclusion of the surveillance activity, a detailed report is normally made to the Divisional Heads through Sectional Heads.
2. If contraventions of the regulations have been observed, the report shall be forwarded to the DGCA and must include any evidence of contraventions that has been gathered as well as an account of all actions taken.

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Chapter 6: Detection

6.1 Introduction

Detection is the discovery of a possible contravention of aviation related rules and regulations. It may result from activities such as inspections, audits and surveillance programs, and public complaints. A Civil Aviation Inspector must take action on observing a contravention or when apprised of one relating to his/her area of specialty, without waiting for further instructions from the superiors, subject to the delegation of authority.

It is also necessary that every Civil Aviation Inspector shall keep the appropriate division/section Heads of the CAASL be informed if there is any information that the applicable requirements have not been adhered to or to be contravened. At the very least, an inspector should carry out the initial violation process as described in the section 6.2 and forward it without delay to the Sectional Heads along with all evidence gathered in support of the allegation of a violation.

Even when the matter does not require further action, as in the case of an oral counseling, the initial violation process provides the Sectional Heads with information which helps shape the Aviation Enforcement Program.

6.1.1 Initial Report of a Violation

In all cases where an inspector detects a contravention or where information about a possible contravention is received, the inspector should attempt to gather as much information as possible regarding the incident. This is necessary to preserve perishable evidence and to provide sufficient information about the contravention to enable a complete and comprehensive investigation. The initial violation process should simply provide answers to the questions: WHO, WHERE, WHEN, WHAT, WHY and HOW. The information should be recorded and passed to the Sectional Heads 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 counseling or to refer the matter for further investigation is entirely at the discretion of the inspector completing the Check List. If the contravention is considered minor, the inspector may opt for oral counseling.

If the contravention is of a more serious nature, the inspector must refer the incident without delay to the Sectional Heads for further action. The Sectional Heads will then determine if a comprehensive investigation should be carried out or not

6.1.2 Detection of Records

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6.1.2.1 Oral Counseling

Oral counseling provides the document holder with immediate counseling on the necessity for compliance. It is an option for inspectors when the contravention is minor and inadvertent or is a safety-related violation where there is no direct flight safety hazard and the imposition of a sanction is not considered appropriate. Refer to the factors affecting choice of sanction in the examples enumerated in Chapter 12 Administrative Action for guidance on determining whether or not oral counseling is appropriate.

Inspectors should assess all aspects of the contravention and the attitude of the document holder to determine whether oral counseling will secure future compliance. Oral counseling may be most appropriate in cases of ignorance or misinterpretation of the law, provided aviation safety was not jeopardized, i.e. a minor contravention having little or no impact on safety or where there was no indication of a willful act. Oral counseling is not an option when the alleged offender disputes the allegation. In all cases, the Inspector should maintain a written record of such counseling, briefly.

The purpose of counseling is to ensure,

1. The Document Holder understand the nature and safety implications of the breach or failure to meet the required standards,
2. The Document Holder understand how similar breaches or failure can be avoided in the future,
3. The Document Holder understand that further breaches or failure will likely result in enforcement action being taken, and
4. CAASL has a reasonable degree of confidence that the Document Holder will comply in the future.
5. There shall be a written record in the respective office folder as to the oral counseling which will help identify the process followed.

6.1.2.2 Further Investigation

If in doubt about the appropriate action to take in a given circumstance, the inspector should refer the matter to the Sectional Heads for further investigation.

6.1.2.3 Contraventions of Dangerous Goods Regulations

Civil Aviation Authority's Inspectors who have undergone relevant training programmes as approved by the CAASL and been properly authorized, are responsible for promoting compliance with the Transportation of Dangerous Goods Regulations. Because of the possible hazards involved in the transport of dangerous goods, all inspectors, upon detection or receipt of a reported violation, shall apprise Head of Flight Safety Division and Head of Section (Flight Operations) of the situation.

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



6.1.3 Inspectors Flying as Passengers

If inspectors, while flying as passengers on an airline either on duty or off duty Identify a contravention which, in their judgment, must be brought to the attention of the flight crew (e.g. a major disregard of the CARs), they shall contact the pilot-in-command after the flight has terminated. After identifying themselves, inspectors should indicate to the pilot the nature of the contravention and advise the pilot that they will be making a detailed written report. An initial violation process (refer para 6.4) form shall be forwarded without delay to the DDG (FSR). It shall be 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 Part A Standards Operating Procedures of the FOM of which forbids a flight to commence without an inspection for adherence of any critical surface of an aircraft. In such a case, direct and immediate action shall be taken by the inspector.

6.1.4 Expanded Description of the Initial Violation Process

1. The purpose of the initial violation process is to gather information in a systematic manner when it is suspected that a regulation or procedure has been violated by an act or omission that warrants further investigation.
2. All inspectors are responsible for gathering pertinent information when they detect a violation of the regulations and for recording that information, preferably in the Initial Violation Process Form or check list. This initial process of collecting information concerning a possible violation is often the only opportunity to preserve perishable evidence.
3. 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:
 - ❖ Fill out the Initial Violation Process Form (Refer annexure 04); or check list
 - ❖ Record all possible contraventions (even borderline offences);
 - ❖ Record date, time and location of the contravention;
 - ❖ Record the identification of the aircraft, aerodrome, air navigation facility or service or Civil Aviation Activity with the location and the names, addresses and telephone numbers of all persons involved;
 - ❖ 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, where necessary
 - ❖ Take photographs of all objects that cannot be secured or moved;
 - ❖ Take notes on the events immediately preceding and following the contravention;
 - ❖ Record the names, addresses and telephone numbers of all witnesses that were present or that may have information and note the information each could

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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);

- ❖ Approach any person you suspect of committing a contravention and seek their account of the occurrence; Contact the Sectional Head for assistance or direction as required.

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

Upon detection of a violation and the completion of the Initial Violation Process Form Check List, an inspector should forward the same to the Sectional Heads concern who will assign an investigator to the case, in consultation with the Head of Division and DGCA. Both the reporting inspector and assigned investigator shall continue to coordinate their work as necessary until the conclusion of the case. Analysis of Legislative Provisions

6.2 Introduction

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

6.3 Construction of Legislative Provisions

6.3.1 Types of Legislative Provisions:

Legislative provisions may be enabling, administrative, informative and offence creating. Only the offence creating provision can be the subject of enforcement actions.

- ✘ **Enabling provisions** are those which confer power on persons to make some other type of standard or policy. Some enabling provisions in the Civil Aviation Act and CARs are those which give powers to make regulations, orders and publications. For example: See [Section 120 of the Civil Aviation Act](#)
- ✘ **Administrative provisions** confer a power or impose a duty on the DGCA; 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 DGCA can do, their purpose is to provide a statutory basis for administrative procedures or actions. For example: [Section 73](#) or [92 of the Civil Aviation Act](#)
- ✘ **Informative provisions** are intended to guide the aviation community and assist individuals in complying with aeronautics legislation. For example: [Section 3 of the Civil Aviation Act](#)
- ✘ **Offence creating provisions** can be one of two types; first, those which mandate a certain form of conduct and, second, those which prohibit certain conduct. Non-compliance with these provisions is a violation that can result in judicial or

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administrative enforcement action. For example: [Sections 09,103 and104 of the Civil Aviation Act](#)

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

6.3.2 Interpretation of Legislative Provisions

Precise Interpretation requires analysis of the various elements of a legislative provisions. An element is a segment, either a single word or group of words, which 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").

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

6.3.4 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 import) (any aircraft) (except under the authority of a permit issued by the DGCA).
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. [e.g., (unless provided, (except))].
5. Summarize the results to arrive at the interpretation.

6.3.5 Analysis of Offence Creating Legislative Provisions for Evidence

Where a contravention is suspected, the pertinent legislative provisions should be divided into elements and analyzed for interpretation. The facts that need to be established to prove a contravention and the forms and sources of evidence that 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.

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6.3.6 Standard 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.

6.3.7 Special forms of evidence

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



Chapter 7: Investigations

7.1 Introduction

An investigation is a systematic search for documentation of the facts relevant to an event from enforcement process since which a decision to take appropriate action can be made. It is the most significant phase of the 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. Inspectors must also know what constitutes relevant evidence if CAASL is to bring an action against an alleged offender because the only means available to prove that the violation has taken place is through obtained evidence.

7.1.1 Priorities for Investigation

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

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

CVR/FDR recordings **shall not be used** by Civil Aviation Authority of Sri Lanka in any enforcement matters. Their use is limited to aircraft accident investigations to assist in determining the cause of accidents and incidents

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

7.1.4 Exemption from Application of Civil Aviation Rules

Certain sections of the CARs provide for the granting of specific exemptions from the application of all or part of the offence-creating provisions. Usually the onus is on the alleged offender to provide proof of such an exemption.

7.1.5 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.

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7.1.6 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 DGCA 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 DGCA 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).

7.1.7 The Defence of Due Diligence

In order to establish this defence, the alleged offender must show that due diligence was exercised (all reasonable steps were taken) to avoid committing the contravention. Where due diligence is proven, the alleged offender cannot be found in contravention of the law because all reasonable steps to avoid the contravention were taken. What constitutes due diligence will therefore vary from case to case depending on the facts.

7.1.8 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 of enforcement of the particular law. It must be proved, on a balance of probabilities, 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



7.1.9 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 **DGCA** is satisfied that a defense 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, the procedures as laid out in the rules made in accordance to the [Section 122 of the Civil Aviation Act](#) shall be followed. If the alleged offender insists the defenses are valid, the situation becomes a matter for the **appellate authority** or the court to decide.

7.1.10 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 **as follows**:

Order of priority

- ✘ Identify all provisions that were possibly contravened;
- ✘ Analyze the regulations allegedly contravened;
- ✘ Determine the evidence necessary to prove each element of a violation;
- ✘ Plan and initiate the steps necessary to obtain such evidence; e.g. interviews, resource personnel, expert witnesses, log books, records, search warrant, etc.;
- ✘ Obtain information from the alleged offender. The alleged offender must be contacted in person, by telephone or by mail and be advised that:
- ✘ An investigation is in progress; and,
- ✘ 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 imposition of Monetary Penalty 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.

- ✘ Co-ordinate the investigation to prevent overlap or conflict with other personnel;

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- ✘ Establish the cause of the violation. e.g. weather, navigation hazard, equipment, deliberate, inadvertent;
- ✘ Record the relevant information, including a narrative of the facts and circumstances of the event which lead to the alleged violation
- ✘ Prepare a 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;

7.1.11 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 un-correctable technical or other flaw in the case precludes further action;
4. An exemption had been granted which negated the contraventions; or
5. A defense 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.

7.1.12 Disclosure of Information

The responsible CAASL official **may** disclose all evidence that may assist the document holder, even if CAASL does not propose to adduce it. However, file notes containing personal opinions as well as internal correspondence outlining how to proceed with sanctions shall not be disclosed.

If a review hearing is scheduled, the dispatch of the disclosed information should be arranged so that the document holder receives the information at least 30 calendar days before the hearing date or as soon as practicable if the hearing is to be held before 30 days. **Disclosure may be** made at least seven days before the hearing. **Disc**losure can occur at any earlier time on the request of subject of the investigation.

The purposes of the **disclosure** policy are listed below:

1. To ensure that the document holder knows the case to be met and is able to make full answer and defense;
2. To encourage the resolution of facts at issue; and
3. To encourage the resolution of the case prior to the hearing.

7.1.13 Extent of Disclosure

The CAASL Aviation Document holder shall be given at least the following, as is relevant to the case:

1. Particulars of the circumstances surrounding the case;



2. Copies of relevant written statements (these may include witness statements, investigative notes, and summaries);
3. An appropriate opportunity to examine electronic statements and/or other medium, i.e., air traffic service (ATS) tapes;
4. A copy of relevant electronic evidence, where such taped evidence exists;
5. Particulars of the CAASL Aviation Document holder's enforcement record, if applicable;
6. Copies of relevant expert witness reports caution should be exercised so that privileged information is not released or that it is not released to the wrong parties;
7. Copies of relevant documents and photographs that the case presenting officer (CPO) intends to introduce into evidence during the hearing;
8. A copy of any search warrant obtained and executed during the investigation caution must be exercised where privileged information is at issue, i.e., in-camera hearing;
9. Copy of the Notice of Suspension or Notice of Assessment of Monetary Penalty;
10. Particulars of relevant evidence intended to be relied on at the hearing and any information known to the CPO that the CAASL AVIATION DOCUMENT holder may use to impeach the credibility of a Department witness in respect of the facts at issue in the case;
11. If applicable, a copy of the flow chart relating to an airworthiness matter; and
12. 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 witnesses should be informed of the action, and inquiries should be made as to whether there is any problem anticipated.

The information that is disclosed should be sent to the CAASL AVIATION DOCUMENT holder by registered post.

7.1.14 Exceptions to Full Disclosure

Without prejudice to the generality of the provisions contained in the Right to Information Act (RTI), certain information that is related to items of 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**
3. Information that cannot lawfully be disclosed **under any written law in Sri Lanka** or that would be injurious to international relations, national defense or security if disclosed.

7.1.15 Search Warrants Investigations

During the course of an investigation, the powers of entry and seizure available to an inspector conducting an inspection are no longer applicable.



1. If entry or surrender of evidence is refused by the occupant or there are grounds to believe that entry or surrender of evidence will be refused, authorization for entry, search and seizure must be obtained through a search warrant issued pursuant to [Section 98\(5\) of the Civil Aviation Act](#).
2. The approval of the DGCA shall be obtained prior to requesting a search warrant.
3. The authority for the use of a search warrant shall be carried out by a peace officer.
4. The investigator shall not use force;
5. A search warrant is only used by the DGCA to support Enforcement investigations and, as a result, its use is limited to Enforcement functions.

7.1.16 Return of Evidence Investigations

Because a search warrant is obtained under the Criminal Procedure Code, anything seized during the search as evidence with the consent of the owner shall be returned in the same manner as items seized.

COMPARISON OF INTERVIEWS OF WITNESSES AND ALLEGED OFFENDERS	
Witness	Alleged Offender
AIM ...to gather information and test its validity in order to determine the particulars of the matter under investigation.	...to gather information and test its validity in order to determine whether the subject was responsible for or involved in the matter under investigation.
WHO ...witnesses who are willing to provide the investigator with any information they possess about the matter under investigation.	...persons suspected of offences as well as others who may have information but are reluctant to offer it.
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.	...interviews of alleged offenders should take place ideally after the investigator has gathered enough information to make a judgment 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.
LOCATION ...at a place convenient and familiar to the subject or in a neutral setting. The	...the interview room at the office is best since it enables the inspector to manage



subject's home, place of business or any place where privacy is assured is preferred.	the security of the subject and to control other factors which might tend to be distracting.
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 and to jog the witness' memory.	...basically the same method as with witness interviews, but the atmosphere is more formal and the investigator works toward a more specific purpose.



Chapter 8: Covert Inspections

8.1 Introduction

Most surveillance done by Civil Aviation Authority officials is of an overt nature, that is, staff is in uniforms, 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 inspections are surveillance activities during which inspectors intentionally represent themselves as being someone other than a Civil Aviation official.

8.1.1 Covert Inspection Policy

Covert inspection may be conducted in order to gather evidence of continuing willful violations of the aviation safety regulations. Covert inspections 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 activity.

The decision to conduct a covert inspection shall be made by the DGCA on the advice of the HoD. Should the DGCA be satisfied that a need exists for inspectors to conduct a covert inspection; the HoD will be granted the authority by the DGCA. The DGCA should advise **the relevant government entities** about the particulars of the case (if considered necessary).

8.1.1.1 Principles of Covert inspections

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

1. All covert inspections shall be approved by the DGCA;
2. DGCA shall be responsible for the conduct of covert inspections.
3. The Divisional Heads shall ensure adequate command, control and communications are exercised during each operation;
4. Where Civil Aviation Authority contemplates involvement in a joint covert inspection, the agency in charge of the inspection will be identified prior to the start of the inspection;
5. Civil Aviation Authority may provide technical advice but will not participate actively in a joint covert inspection where it is anticipated activity that is likely to place an inspector in physical danger will be encountered during the inspection;
6. During the planning stage of a joint covert inspection, a contingency plan shall be developed that will permit Civil Aviation Inspectors to withdraw from active participation in the inspection if there is a likelihood that the inspectors 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;



8. Care must be taken to ensure that the associated investigation is not construed as entrapment; and,
9. The HoD shall ensure inspectors are thoroughly briefed for the covert operation and are aware of the guidelines for inspectors.

8.1.1.2 Guidelines for Inspectors

Inspectors engaged in covert inspections 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 DGCA shall be notified immediately to enabling him to take appropriate action;
3. If activity that is likely to place an inspector in physical danger is detected, the operation shall be abandoned and informed to the DGCA through their respective Heads and report to the CAASL office rather than being at risk. If joint covert operations come in to effect, the contingency plan developed to withdraw the inspectors from the operation and joint covert 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 if, in the opinion of the inspector, a condition exists that is an immediate threat to the safety of the flight.



Chapter 9: Special Investigative Procedures

9.1 Contraventions by Military Aircraft

The Sri Lanka Civil Aviation Act/Regulations do not apply to;

1. Sri Lanka Air Force aircraft operating under the authority of the Minister of Defence; and
2. Foreign military aircraft.

9.1.1 Contraventions by Sri Lankan Aviation Companies

9.1.1.1 Contraventions Detected during an Audit or Inspection

When audit or inspection team members of CAASL detect an apparent contravention of the regulations, they shall follow the initial violation process in chapter 6 of this manual including the **seizure of relevant evidence**. The Team Leader shall identify all contraventions of the regulations detected during the **audit/inspection** and will determine whether the related information should be forwarded to the DGCA/HoD during the **audit/inspection** or held for inclusion in the **audit/investigation** report. If the Team Leader is of the LAEnion that a contravention discovered during an **audit/inspection** requires immediate action, the Team Leader shall inform the HoD/HoS of the details and request a comprehensive investigation.

On receipt of the audit report, the DGCA and respective Head of Division will jointly determine which contraventions require comprehensive investigation and deterrent action. If, at the completion of a comprehensive investigation, suspension of an CAASL Aviation Document approval appears to be the most appropriate sanction, the HoD/HoS should consult with the DGCA before issuing the suspension. See Chapter 12 Administrative Action for other deterrent action considerations.

9.1.1.2 Contraventions Detected by Other Means

A Civil Aviation Authority Inspector detecting a contravention by an air carrier, crew member, service provider or air transport provider must follow **the initial violation process** to record essential facts. A report must then be made to HoS who has responsibility to investigate the matter and recommend to the delegated authority to impose a penalty. The inspector or the HoS may address immediate operational considerations through the exercise of functional or safety powers under the Civil Aviation Regulation made in accordance to the Civil Aviation Act or Air Navigation Act or else Embarkation Levy Acts and any Gazette Notification on any aviation activities.(e.g. the suspension of an AOC 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 with the specialty functions before making a recommendation on the final case disposition to the HoD/HoS.



Any violation committed by an air carrier employee during other than air carrier business shall be processed as described.

9.1.2 Contraventions of Foreign Aeronautics Legislation by Sri Lankan Aviation Document Holders

1. These procedures apply whenever a Sri Lankan aviation document holder is alleged to have violated foreign Aviation legislation.
2. If the allegations concern a regulation is similar to the Sri Lankan regulation having a direct Sri Lankan equivalent, the investigation should proceed normally.
3. In cases where allegations related regulation is not similar to the Sri Lankan regulation to a regulation without Sri Lankan equivalent and where the contravention is confirmed, the DGCA/respective Head of Division may proceed administratively or judicially under **Section 107** of the Civil Aviation Act.

9.1.3 Special Cases Involving Sri Lanka Registered Aircraft

1. Where Sri Lankan operators are involved in contraventions which may have certification implications, the DGCA/respective Head of Division shall advise the operational authority **for that operator.**

9.1.4 Treatment of Gross Navigational Errors (GNE) - Oceanic or Domestic Airspace

1. Gross Navigational Error is the term used to describe the deterioration in the performance of equipment used by aircraft authorized to fly in oceanic airspace.
2. 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.
3. Airspace violations are subject to investigation in the same manner as any other contravention would be investigated.
4. All GNE should be investigated to determine which FEW of them actually constitute equipment degradations as opposed to the majority of GNE which are the result of actual violations - non-adherence to clearances, finger-trouble on the part of the crew, incursions into MNPS airspace by unqualified crews or aircraft.

9.1.5 Contraventions Involving Foreign Civil Aircraft

Where foreign civil operators are involved in contraventions which may have certification implications, the DGCA/Respective DDG in charge of the relevant division shall advise the operational authority for that operator through proper CAASL Channels.

International Civil Aviation Organization (ICAO) rules and agreements, various bilateral agreements between Sri Lanka and other countries impact on the manner in which Sri Lanka deals with contraventions involving foreign civil aircraft. Timely branch-to-branch



consultations are mandatory to ensure expedient and effective enforcement actions. While in Sri Lanka, pilots and operators from foreign countries are expected to comply with the ICAO Standards.

9.1.6 Requests from Foreign Civil Aviation Authorities

Requests for assistance from foreign civil aviation authorities are normally received by DGCA and are relayed to the appropriate Sections for action. Direct requests from other foreign agencies shall be referred to DGCA. In any event, full CAASL cooperation is expected in keeping with the intent of Article 12 of the ICAO convention.

9.1.7 Contraventions by CAASL Employees

Contraventions committed by CAASL employees, shall be handled **in the normal manner.** CAASL employees shall not be treated different from any other individual. The same rules are applicable to designated senior civil aviation inspectors and check pilots, check air traffic controllers and flight or ground examiners who are functioning under the delegated authority of DGCA.



Chapter 10: Investigation Reports

10.1 Introduction

An investigation report is a complete relation of the facts of a case drawn up by the investigator for use by the DGCA/Respective DDG in charge of the relevant division. It is inserted as the first section of a case file. The investigation report provides a method of systematically compiling and summarizing all information pertinent to the case so that the DGCA/Respective DDG in charge of the relevant division 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 DGCA/Respective DDG in charge of the relevant division should have a sufficient understanding of the case to be able to determine with confidence the appropriateness of the action recommended by the investigator. The investigation report also serves as a checklist for the investigator to ensure that all necessary investigative steps have been completed and nothing further remains to be done. It should be as accurate and comprehensive as possible.

10.1.1 Content and Preparation of Investigation Reports

1. The cover sheet of the investigation report should contain the identification of the alleged offender by name, position and licence number, if appropriate, as well as the alleged contraventions and the name of the investigator.
2. This should be followed by a case synopsis, which could be described as a thumbnail sketch of the case, providing the DGCA/Respective DDG in charge of the relevant division with a quick overview of the situation.
3. Next identifying the alleged offender by name, address and date of birth, and setting out licensing details and details of the aircraft involved.
4. 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.
5. 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.
6. 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.
7. If applicable, the alleged offender's enforcement history is indicated next.
8. The package is rounded off with the inspector's recommendation in which any mitigating or aggravating circumstances may be outlined.
9. While preparing an investigation report which demands much work, a case cannot be expediently concluded without a properly prepared case report.
10. 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.



11. In case an internal deficiency of DGCA comes to light during the course of investigation, the investigator shall prepare a separate report giving the details of the deficiencies noticed. He shall forward this report to DGCA for appropriate action.

An example of case report is available in Annexure 05.....



Chapter 11: Deterrent Action

11.1 Introduction

1. The most important decision in the enforcement process is determining the appropriate deterrent action to impose when the evidence indicates that an individual has contravened any provision of **Primary and Secondary Legislations issued on Civil Aviation**. This decision may significantly affect the individual's attitude towards aviation safety and towards compliance with the rules in the future.
2. The intent of the procedures in this chapter and the other chapters in this manual is to promote fairness and uniformity in the selection of the appropriate deterrent action. It sometimes helps to develop a systematic trail of history of document holder's compliance with the applicable legal provisions so that a snapshot of 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.

11.1.1 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 **legislative provisions**.

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

11.1.2 Types of Deterrent Action

There are two types of deterrent actions: **judicial** and **administrative**. Judicial action involves the prosecution of an alleged offender in the criminal courts. Administrative action comprises all other measures taken by the DGCA pursuant to the provisions of the **Primary and Subsidiary Legislations including** oral counseling, the suspension of documents and the assessment of monetary penalties. Administrative action is described in para 12.5.1

11.1.3 Selection of Appropriate Deterrent Action

The type of deterrent action permitted in response to an offence depends on the specific offence. To determine which deterrent action is available it is essential to first ascertain whether a particular offence is one of the hybrid offences, summary conviction offences or the designated provisions. See illustration of the judicial and administrative actions that may be taken in respect of the various classes of offences. **(Refer Annexure 01)**

The available deterrent actions may be;



1. Issuing directives,
2. Requiring examination;
3. Oral Counseling; See Para 6.2.1.1.
4. Recommending remedial training;
5. Imposing conditions (Limitations) on the CAASL Aviation Document;
6. Monetary penalties; See Para 13.2.1.
7. Varying, Cancelling or Suspense of CAASL Aviation Document. See Para 12.5.4. and 13.2.2
8. Recommending for compulsory Leave; and Prosecutions. See Para 12.5.2

11.1.4 Remedial Training;

This type of enforcement action under administrative action is being applied when a breach appears to have occurred due to lacks in competence of a CAASL Aviation Document holder. Following circumstances may apply;

Previous incidents do not use aged incidents whether the incident significantly compromised safety. If committed unintentionally is it very minor or carries little weight to the safety.

If the CAASL does not take action or not it given seriousness at the time of occurrence may be difficult to consider now. And if doubt, given the chance to respond to the CAASL Aviation Document holder.

11.1.5 Hybrid and Summary Conviction Offences

Where a person has contravened a non-designated provision, the DGCA must decide whether to take administrative action or judicial action. All alleged contraventions of the Aviation Act or the CARs shall be dealt with by taking administrative deterrent action except where the criteria for judicial 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 judicial action may be more appropriate, particularly in light of the heavier sanctions normally imposed.



11.1.6 Joint Judicial-Administrative Deterrent Action

Judicial 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 [section 72\(4\)](#) of the Civil Aviation 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 [Section 72](#) of the Civil Aviation Act.

A prosecution for one offence may be accompanied by suspension for another offence only where common facts are not relied on. Judicial 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.

11.1.7 Deterrent Action: Operator of airlines, Aerodromes and Aeronautical Services

Different considerations apply regarding deterrent action for contraventions committed by operators of airlines, aerodromes and aeronautical providers than which apply to contraventions committed by pilots and others. This is because sanctions imposed in respect of a contravention affect not only the carrier but also the carrier's employees and the public the carrier serves. Safety remains the overriding factor. Deterrent measures must impress upon the operators that unsafe operation at the risk of public safety will not be tolerated.

11.1.8 Administrative Action

Five types of administrative action which may be taken where an air carrier contravenes a provision or regulation are:

1. Oral counseling;
2. A monetary penalty;
3. Varying the CAASL Aviation Document
4. A suspension of an aviation document; or,
5. A cancellation of an aviation document.

Suspension or cancellation of an aviation document would be appropriate where the operator/ service provider had repeatedly contravened the regulations even though the safety implications were minimal.

The systematic tracking with appropriate grading of carrier's/service provider's noncompliance history would help the CAASL determine deterrent actions against the carrier, if the inspector feels that the documents holder/holders are repeating the deliberate violations jeopardizing the aviation safety an increase on the penalty shall be imposed



furthermore, cancellation would be more appropriate where suspensions or monetary penalties are not having the desired effect.

11.1.9 Judicial Action

Prosecution of an air carrier / service provider for a contravention of a non-designated provision is recommended in all cases where, in the opinion of the DGCA, the contravention is such that it would be appropriate to seek an enforcement action to the offence committed by the CAASL Aviation Document holder from the Law prevailing in the country .

11.1.10 Emergency Action

Occasionally, the contravention of a regulation by a CAASL Document holder (airline) may pose an immediate threat to aviation safety. Two courses of action are available in such a situation.

✘ Aircraft Detention 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 38 of the Civil Aviation Act](#). The detention shall remain in effect until the unsafe condition is corrected.

✘ Air Operator Certificate Suspensions for Immediate Threat to Aviation Safety

Where the threat arises from the operations of the carrier (instead of a single aircraft), the DGCA may decide to suspend the Air Operator Certificate under [Sub Para \(2\) of the Section 76](#) of the Civil Aviation Act. This sort of suspension must be viewed as a last resort to be carried out with extensive consultation among the HoD and HoS of the CAASL as appropriate. The DGCA 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 DGCA 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.

11.1.11 Punitive Suspension or Cancellation of an CAASL Aviation Document

The authority for cancelling an CAASL Aviation Document under [Sub Para \(2\) of the Section 76](#) of the Civil Aviation Act rests with the Director General of Civil Aviation. A punitive suspension of an CAASL Aviation Document should only be considered when the holder has a history of repeat offences and when, in the opinion of the suspending authority other measures (e.g., monetary penalties) would not promote future compliance. The suspending authority is responsible for reviewing the factors affecting the choice of



sanction before the decision is made to suspend the Aviation Document. The suspending authority may consult with HoD/HoS, as appropriate, to discuss:

1. The technical accuracy of the evidence and findings;
2. The coordination of concurrent regulatory actions, if applicable; and,
3. The severity of the sanction as a response to the violation; (See the Table of Sanctions in Annexure 01)

Once a final decision to suspend has been made, the suspending authority is responsible for following the procedure in Chapter 13 Administrative Action. Standard practice is to provide an opportunity for an informal meeting with the carrier. The suspending authority may involve the DGCA /HoD/HoS in the meeting with the representative of the document holder. See Chapter 13 Administrative Action for guidelines on the informal meeting process. The imposition of a punitive cancellation of Aviation Document should follow the same procedure as that for a suspension.

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Chapter 12: Sanction Determination in Cases of Multiple or Continuing Violations

12.1 Multiple Violations

Multiple violations involve a series of distinct and separate contraventions of a particular regulation or regulations 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:

12.1.1 Administrative Action

For multiple violations of the Designated Provisions, the Notice of Suspension (Refer **Annexure 06**) or of Monetary Penalty 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 **Director/Committee** the evidence can be presented.

12.1.2 Prosecution

In the case of a summary conviction offence involving multiple violations, where prosecution is the desirable option, the Attorney General Department shall **be informed** of CAASL's intention **to initiate legal action** in respect of each flight conducted in contravention of the regulations, that is, each flight should be set out as a separate count.

12.1.3 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, aeronautical service providers or personnel aviation document requirements, modifications or additions to aircraft equipment outside of airworthiness specifications and entries made in a log are the examples.

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 DGCA the following procedures shall apply in the disposition of such cases:

(1) Administrative Action

In all cases of suspension or monetary penalty determination, each separate flight conducted in violation of the regulations shall be considered as a separate offence. The

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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) Termination of 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 37 and 38](#) of the Civil Aviation Act may not be possible. When the violations involve an air carrier, a viable option is to suspend the Air Operator Certificate/FAOC relating to the particular aircraft operation under [Sub para \(2\) of the Section 76](#) of the Civil Aviation Act in addition to any enforcement action.

12.1.4 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 [section 72](#) of the Civil Aviation Act on a flight CMBMLE-KUL), it is appropriate [to file](#) 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.

12.1.5 Assessment of Sanction

The assessment of the sanction in all administrative cases shall consider each count separately following the guidelines in Chapter 14. A brief reason for sanction shall be recorded for each count. The total amount of monetary penalty or period of suspension shall be the sum total of the sanctions imposed for each count. Where exceptional circumstances warrant, the final sanction may be modified. The DGCA should record the reasons for the modification in the case file.

12.1.6 Disclosure of Deterrent Action

12.1.6.1 Disclosure to Employers

1. CAASL shall be advising the aviation document holders about the deterrent action taken if the contravention took place while the alleged offender was on company business.
2. If the alleged offender was not on company business at the time of the contravention, the disclosure of deterrent action to their employee is prohibited unless an exception under the regulations applies.
3. An exception may exist where the deterrent action taken against a professional pilot affects the pilots employment, (e.g., suspension of license privileges).
4. 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).

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5. The question of whether or not to inform an employer must be addressed on a case by case basis. The DGCA will decide if disclosure to the employer is appropriate.

12.1.7 Notification of Detection Source

The HoD/HoS of the CAASL shall ensure that the detection source is advised of the outcome of the case and record this action.

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Chapter 13: Administrative Action

13.1 Introduction

Administrative action comprises all deterrent measures, other than judicial action, taken by the DGCA pursuant to the provisions of the **Primary and Secondary Legislations issued on Civil Aviation**. Administrative action in the form of a suspension or oral counseling can be used not only for designated **provision offences** but also for summary conviction and hybrid offences. Almost all deterrent actions taken by CAASL are administrative actions. They are usually resolved quickly yet give the offender access to a review and the full process of natural justice.

13.1.1 Administrative Action Options

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

13.1.1.1 Preventive Action

Oral counseling (see Para 6.2.1.1 for details) if a comprehensive investigation is concluded with an oral counseling, that fact is recorded and the file is closed as **a NFA**. **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. But Oral counselling is not an option when the alleged offender disputes the allegation.**

13.1.1.2 Administrative Sanctions

1. Administrative Monetary Penalties

Administrative monetary penalties may be assessed where there has been a contravention of a designated provision. The monetary penalty procedures are founding Para 13.2.1 and also refer the [Chapter X of the Civil Aviation Act](#).

2. Suspension of Sri Lankan Aviation Documents

A punitive suspension may be taken in respect of any contravention of a provision of **26, 51(4), 67, 76(2), and 91** of the Civil Aviation Act

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Chapter 14: Administrative Action: Selection and Process

14.1 Introduction

1. Contraventions of designated provisions may be dealt with either by suspension or by assessment of an administrative monetary penalty.
2. When contraventions of non-designated provisions are dealt with administratively the only sanction that may be imposed is suspension of an aviation document.
3. Simultaneous administrative and judicial enforcement action under the Civil Aviation Act may be taken for different contraventions arising out of the same circumstances,
4. For the limited number of offences where there is an option, administrative and judicial enforcement action shall not be taken in respect of the same contravention; one or the other shall be selected depending upon the facts of the particular case.
5. When, in the opinion of the DGCA, aviation safety is an issue, or, in the case of an air operator, the violation was associated with the “cost of doing business” or was a way of reducing operating costs, the minimum penalty imposed shall be the penalty recommended in the Table of Sanctions.

14.1.1 Procedures for Administrative Monetary Penalties

When the DGCA receives an investigation report from the investigating inspector, he may assess an administrative monetary penalty as a sanction, whether or not a monetary penalty is recommended in that report.

The following procedures apply in all cases where an administrative monetary penalty is assessed.

1. The HoD/HoS of the CAASL shall determine and recommend the amount of the penalty that is appropriate, considering the Table of Sanctions set out in Chapter 17.
2. The HoS shall complete the **Notice of Monetary Penalty(Refer Annexure 07)**. 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.
3. With the Notice, the HoD/HoS shall enclose an information Sheet describing the informal meeting procedure and offering the alleged offender an opportunity to discuss the sanction.
4. The HoS shall serve the Notice on the alleged offender personally or by registered mail. The date appearing on the Notice shall be the date on which the Notice is to be served or sent.
5. The monetary penalty may be paid by one of the methods acceptable to CAASL and may be sent by mail or brought personally to the HoS or appointed delegate. An official receipt will be issued.

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6. Should the monetary penalty not be paid by the due date (a minimum of 15 days not counting the day the Notice is served), the HoS shall send a copy of the Notice to the DGCA within fifteen days following the due date.

14.1.2 Suspension Procedure

- ✘ The suspension of a CAASL Aviation Document for contravention of a provision of the Civil Aviation Act or CAR's is the most severe administrative sanction the DGCA can impose.
- ✘ Suspension action is taken where a monetary penalty would be an inadequate deterrent or continued use of the document would create a hazard to aviation safety and judicial action is either not available or inappropriate.
- ✘ Where a CAASL aviation document has been suspended, the person to whom it was issued shall return it to the DGCA and shall not exercise the privileges attached to that document until it is restored by the DGCA. 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 paragraphs outline the suspension process.

1. The HoD/HoS shall determine and recommend the appropriate duration of suspension by considering the Table of Sanctions in Chapter 17 on the recommendation of the investigator.
2. The HoD/HoS shall complete the Notice of Suspension. 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.
3. With the Notice, The HoD/HoS shall enclose an information sheet describing the informal meeting procedure and offering the alleged offender an opportunity to discuss the sanction.
4. The HoD/HoS 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 DGCA and applies for a stay of suspension pending its decision, the HoD/HoS shall not oppose the application unless it appears that a threat to aviation safety would result. In such a case, the HoD with HoS or his designate shall present the CAASL's position to the DGCA.
6. Where the alleged offender does not ask for a review by the DGCA within fifteen days 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 under [Section 104, 105 and 100](#) of the Civil Aviation Act.

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14.1.3 Cancellation of an Aviation Document

Cancellation of an aviation 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 cancel a document (Refer annexure 08) for enforcement reasons under **Section 27, 51(4), 67, 76(2), and 91** of the Civil Aviation Act has been rested with DGCA and it has not been delegated to any of the CAASL staff.

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Chapter 15: Informal Meeting

15.1 Purpose of Informal Meeting

The informal meeting offers the alleged offender who has received a Notice of Monetary Penalty or a Notice of Suspension, the opportunity to discuss the sanction. Keeping in mind that the objective of the sanction is to obtain future compliance and provide deterrence to others, the DGCA may modify or amend the original decision. This may be done when new evidence of a statutory defense or mitigating factors come to light, or when the DGCA obtains the assurance, during the discussion, that the alleged offender will comply in the future.

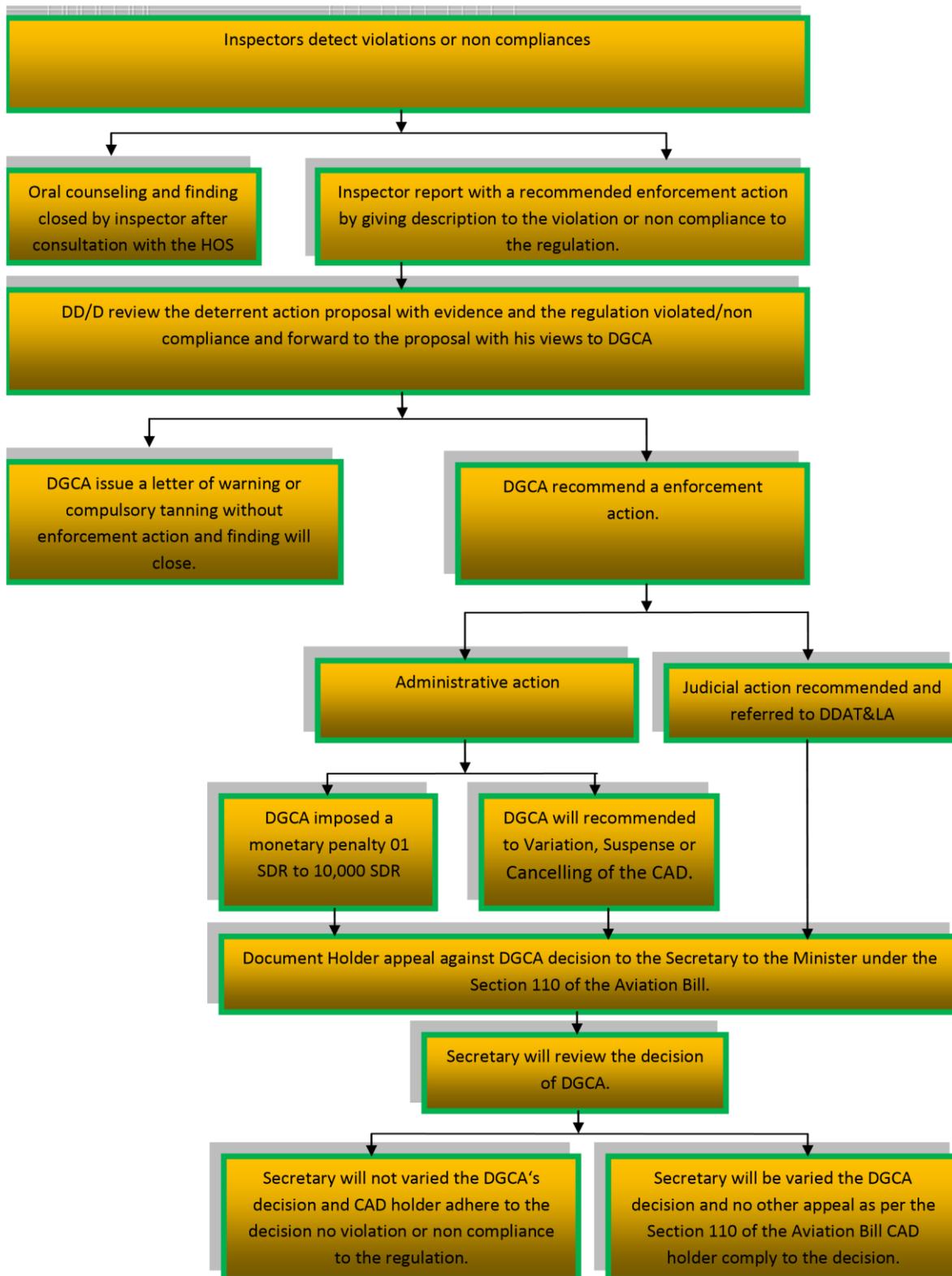
DGCA may conduct informal meetings with alleged offenders in person, or other electronic medium, or through written submissions. During an informal meeting, DGCA may enter into penalty negotiations with a view to reaching a settlement in the case, thereby closing the file. Any discussions during the 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

The alleged offender normally has fifteen days from the date the Notice is served or sent to accept the offer and meet with the DGCA.

15.1.1 Penalty Negotiation Considerations

The following factors shall be considered in deciding whether to enter into penalty negotiations or not:

1. Evidence of mitigating factors not previously identified during the investigation;
2. The alleged offender's enforcement record ,
3. The seriousness of the offence;
4. The attitude of the offender toward future compliance;
5. Whether deterrence can still be achieved through a negotiated settlement;
6. The financial burden on the alleged offender of costs associated with Legal proceedings; and
7. Whether negotiations with a particular alleged offender would bring the enforcement program into disrepute.



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Chapter 16: Table of Sanctions

16.1 General

The Table of Sanctions (**Refer Annex 01**) which follows shall be used as a guideline by a Civil Aviation Official when recommending a sanction and by the DGCA 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 Director/Committee. To that effect, the tables should be adhered to as closely as possible to ensure uniformity in the levying of sanctions and any deviation from the recommended sanction, given the circumstances of the case, must be justified based on the following factors:

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.

16.1.1 Factors Affecting the Choice of Sanction

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 defense?
- ✘ The gravity of the offence
 - ✘ Was a threat to safety posed;
 - ✘ Was there any actual harm done;
 - ✘ Did the violation result in an incident or accident;
 - ✘ Was there careless or reckless conduct; and
 - ✘ What is the maximum punishment available?
 - ✘ The premeditation or deliberateness of the offence and attitude of the offender
 - ✘ While "the mental element" is not relevant to guilt in strict liability offences it may be indicative of the offender's attitude;
 - ✘ Was recklessness involved or plain negligence;
 - ✘ What is the offender's attitude toward safety; and

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- ✘ What is the offender's attitude toward future compliance?
- ✘ Personal characteristics to be considered - what is the offender's:
 - ✘ Age;
 - ✘ Experience level, knowledge and skill in Aviation;
 - ✘ Training record;
 - ✘ Employment - is a license required to hold employment;
 - ✘ Work in relation to any Sri Lankan aviation documents; and
 - ✘ Financial position in regard to the ability to pay a fine or penalty?
- ✘ The record of the offender
 - ✘ Are there any prior sanctions on record;
 - ✘ Is this an isolated act or is this person a repeat offender;
 - ✘ Are there any related or similar offences on record; and
 - ✘ Is there any question of competence or qualification involved?
- ✘ Punishment
 - ✘ What is the range of sanctions available?
 - ✘ Deterrence and public safety
 - ✘ Would the recommended sanction contribute to public safety; and Will the sanction act as deterrent to others?
- ✘ Rehabilitation
 - ✘ Willful obstruction to an inspection
 - ✘ Will the sanction promote future compliance on the part of the offender?

16.1.2 Air Operator Certificate Suspension

According to the **Section 76(2) of Civil Aviation Act** the DGCA has the authority to suspend/ revoke an Air Operator Certificate as a punitive measure.

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Chapter 17: Records Management

17.1.1 Removal of Notation of Sanction

Pursuant to the provisions in the Act of Civil Aviation, a copy of any notation of a suspension by the DGCA aviation document or of a penalty imposed in accordance with the provisions in the Act of Civil Aviation shall be maintained in the individual personnel files.

17.1.2 Pardons — Custody of records and Action

The Attorney General may notify Aviation Enforcement in writing that a pardon to an individual pursuant to Civil Aviation Act for a violation of the or Criminal Procedure Code.

Any record of a conviction in respect of which a pardon has been granted that is in the custody of Aviation Enforcement, shall not be disclosed to any person, nor shall the existence of the record or fact of the conviction be disclosed to any person without prior written permission of the DGCA

17.1.3 Control of Enforcement Records.

All Enforcement records and official documents shall be treated as protected and confidential documents. Enforcement personnel shall ensure that these documents and records are secured when work areas are left unattended.



CIVIL AVIATION AUTHORITY OF SRI LANKA

Our reference:

Date of notice

Name and address of Airline

Dear Sir/Madam,

DETENTION NOTICE OF AN AIRCRAFT

The undersigned, who is working under the delegated authority of Director General of Civil Aviation has sufficient reasons to believe that aircraft *Insert Type of aircraft, Model, Registration Number* which is parked at *Insert name of aerodrome* shall not be flown due to one or more reasons as marked below

the aircraft is not airworthy;	<input type="checkbox"/>
the crew is not qualified or is physically or mentally in capable of operating the flight;	<input type="checkbox"/>
the operation would cause imminent danger to persons or property;	<input type="checkbox"/>
the aircraft does not have an approved dispatch procedure or is not dispatched in accordance with approved dispatch procedures,	<input type="checkbox"/>

Accordingly, in pursuance of the Section 37 of the Civil Aviation Act the aforementioned aircraft / its operating crew is detained until the safety deficiencies are rectified for operation of flights safely.

Name of the Inspector
Designation of the Inspector

Signature / Date/ Time

