



Aviation Enforcement Policy Manual

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EFFECTIVITY

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Foreword

This *Aviation Enforcement Policy Manual* has been prepared for the use and guidance of all Civil Aviation personnel. The manual contains policies on the manner in which delegated enforcement duties and responsibilities are to be performed. All Inspectors/Pilot Examiners are to employ the applicable policies contained in this Manual.

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GLOSSARY

Administrative action—Deterrent action taken by or on behalf of the Director General, including oral counseling, suspension or cancellation of documents of entitlement, and imposition of a monetary penalty.

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

Civil Aviation Provisions—Provisions of the Civil Aviation Authority Act of 2008 (Act), its Implementing Provisions and CARs (IRRs) and the Civil Aviation CARs of the Philippines (CARs)

Compliance—Conformity with the provisions of the Provisions

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

Counsel(State)—Any lawyer representing the interests of the government during legal proceedings.

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

Enforcement action—The steps, including deterrent action that must be taken from the moment a possible violation of the CARs has been detected until the case is concluded.

Functional authority—Technical services within the CAAP grouped by aeronautical knowledge or skills (such as Airworthiness, Operations, Air Navigation and Aerodromes and Enforcement and Legal Service) within which there may be further specialization (e.g., Personnel Licensing, Enforcement etc. Functional authority includes the prerogative of a functional specialist to prescribe how the activity within the specialist's area of expertise should be carried out.

ELS—Enforcement and Legal Service

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

Hybrid offence—An offence under the ACT or the CARs that may be proceeded against by indictment, by summary conviction procedures, or by administrative process.

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

Indictable offence—Any offence that is considered very serious and that carries with it the possibility of a severe penalty. An indictable offence must be proceeded with by the Philippine Judiciary. Several *Criminal Code* offences that are related to aeronautics are indictable offences. Some offences under the ACT may be addressed by indictment.

Indictment procedure—Any offence under the Act for which an indictment is recommended must be decided upon by the Board.

Initial enforcement process—The immediate actions taken on observing or being apprised of a violation. Information is gathered concerning the occurrence and, if an infraction has occurred, a decision is made to conclude the case with oral counseling or to send the information to ELS further investigation.

Inspector—Any CAAP aviation official with appropriate authority under the delegation of authority document.



Investigator—A CAAP Inspector/Pilot Examiner specializing in the application of the CAAP Aviation Enforcement programme.

Legislative Provision—Provisions or CARs of the Republic Act No. 9497 or CARs for which administrative or judicial action may be taken. The majority of the offence-creating provisions of the Act and the CARs have been thus designated.

Line authority—The prerogative of line managers to direct the activities of the staff and resources over which they are responsible.

Misconduct—Behaviour such as professional negligence or to conduct oneself in such a manner that is regarded as immoral or unethical.

Negligence—Conduct falling below the standard required for the protection of persons or property against unreasonable risk of harm.

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

Operator—Person, Organization or Enterprise engaged in or offering to engage in an aircraft operation. (ICAO). Any person who causes or authorizes the operation of an aircraft, such as the Owner, Lessee, or Bailee of an aircraft

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

Recklessness—Any conduct that shows deliberate disregard of, or indifference to, the consequences of one's actions under circumstances involving risk of harm to life or property.

CARs—The Civil Aviation CARs of the Philippines (CARs).

Responsible Manager—The Chief, Aviation Enforcement and Legal Services, FSIS, ANS etc. as appropriate.

Summary conviction offence—An offence that is considered to be less serious than an indictable offence and accordingly carries with it a less severe penalty.

Summary conviction procedure—Decision to sanction is made by the Director General.

Tort—A civil wrong or injury arising out of an act or failure to act, independently of any contract, for which an action for damages may be brought.

Violation—The breach of any offence-creating provision of the CARs. The terms *violation* and *contravention* are used interchangeably.



Part 1- Introduction

1.1 General

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

1.2 Our Obligation

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

Each contracting State undertakes to adopt measures to insure 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 Provisions and CARs relating to the flight and maneuver of aircraft there in force. . . . Each contracting State undertakes to ensure the prosecution of all persons violating the CARs applicable.

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

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

1.3 Voluntary Compliance

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

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

1.4 Fairness and Firmness

ELS is committed to enforcing the CARs in a fair and firm manner. Concern about potential political consequences should not be taken into consideration when determining the appropriate enforcement action.

ELS promotes and applies a policy of fairness and firmness by:

- a) Encouraging open communication between alleged offenders and enforcement Inspectors/Pilot Examiners, especially in cases where there are mitigating circumstances;
- b) Providing oral counselling for minor violations where there is no threat to aviation safety;



- c) Informing offenders of their right to have penalties reviewed by the CAAP board of directors; and
- d) Ensuring that repeat offenders and those who wilfully disregard aviation safety are dealt with firmly.

1.5 Conflict of Interest

Inspectors/Pilot Examiners must take measures to prevent real, potential, or perceived conflicts of interest in the conduct of their duties.

1.6 Handling of Complaints

Complaints by the Public or Civil Aviation Stakeholders, concerning the CAAP shall be recorded and passed to Division Management for response. Every complaint shall be responded to and the result recorded.

1.7 Accessibility of Managers

The ELS will be accessible to the public to explain the Enforcement policy/process. Suggestions to improve this process are always welcome.

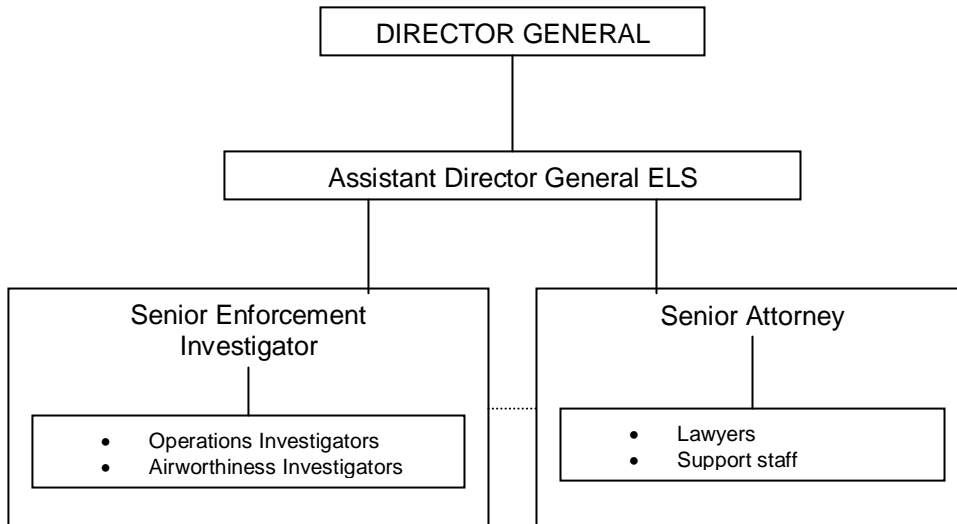
1.8 Amendment of the Aviation Enforcement Policy Manual

This Manual will be amended as required; however, from time to time Enforcement policies will be revised or modified. The amendment process will be the standard process as defined in the CAAP Document Control and Safekeeping Manual.



Part 2 – Organizational Structure

2.1 Organizational Structure



2.2 Qualifications and Training Requirements

2.2.1 ADG (ELS)

The ADG should ideally be an Attorney at Law, with a specialization in Aviation Law. He/she should have experience in the negotiations of international bi-lateral agreements. He/she should also be familiar with corporate and criminal Law. The Chief ELS must receive training concerning the contents of the Act and the CARs and the enforcement policies and enforcement procedures. In addition he must have the basic CAAP induction course.

2.2.3 Senior Enforcement Investigator

The Senior Enforcement Investigator should ideally have been a Flight Operations Inspector or an Airworthiness Inspector, who has been employed in an Aviation Enforcement role with the CAAP for a period of at least five years. For new-hires in the CAAP, a substantial background in the aviation industry, in management of operations or maintenance is required. For operations the candidate must have, or must have had an airline Transport Pilot Licence with at least 5000 hours of Pilot in Command time on transport category aircraft and have been employed in the training and checking department of an airline. For airworthiness, the candidate must have a minimum of 5 years as a responsible manager in the quality control of an Approved Maintenance Organization. He/she must have, or must have had an airframe and power plant licence on transport category airplanes. In addition he/she must have the basic CAAP induction course.

2.2.4 Senior Attorney

To be developed



2.2.5 Operations Investigator

The Operations Investigator should ideally have been a Flight Operations Inspector or Pilot Examiner of the CAAP for a period of at least two years. For new-hires in the CAAP, candidates must meet or exceed the minimum required standards for their particular discipline. All candidates must have the CAAP Aviation Enforcement Course and the basic CAAP Induction Course.

2.2.5 Airworthiness Investigator

The Airworthiness Investigator should ideally have been an Airworthiness Inspector of the CAAP for a period of at least two years. For new-hires in the CAAP, candidates must meet or exceed the minimum required standards for their particular discipline. All candidates must have the CAAP Aviation Enforcement Course and the basic CAAP Induction Course.

2.3 Duties and Responsibilities

2.3.1 Chief of Enforcement and Legal Service (ELS)

- a) Directs co-ordinates and controls the activities of the division.
- b) Reviews completed enforcement case files and checks the legality of every aspect of the file.
- c) Supports the recommended sanction, denies or returns it to the Investigator for review.
- d) Provides legal guidance to the Investigators
- e) Assigns cases to be investigated to enforcement Inspectors, based upon ELS priorities.
- f) Develops the Annual Enforcement Surveillance Plan.
- g) Plans and controls the ELS budget.
- h) Participates in the Qualifications and Standards Board during the hiring of ELS staff.
- i) Represents the ELS at CAAP Board appellate hearings.
- j) Maintains a database of investigations.
- k) Liases with other Division Chiefs of the CAAP.
- l) In the event that the Chief ELS is an Attorney at Law, he may provide advice to the Director General concerning all legal matters of the CAAP.

2.3.2 Senior Enforcement Inspector

- a) Reviews enforcement case files for quality of the contents, for legal applicability of the allegations, for the appropriateness of the recommended sanctions and the continuity of possession of the evidence.
- b) Conducts comprehensive enforcement investigations and prepares case conclusion reports and makes recommendations.
- c) Participates in the annual Enforcement Surveillance programme.
- d) Acts as a resource person and advisor concerning enforcement matters to other CAAP employees.
- e) In the event that the Senior Enforcement Investigator is a pilot, he/she may fly the CAAP owned aircraft in support of the Annual Enforcement Surveillance Plan.
- f) Provides training seminars to Industry stakeholders at their request, concerning the CAAP Act, the CARs and the Aviation Enforcement programme.

2.3.3 Enforcement Investigators

- a) Conducts comprehensive investigations and prepares case conclusion reports and makes recommendations.



- b) Conducts routine surveillance of the Aviation Industry in accordance with the Annual Enforcement Surveillance Plan
- c) Acts as a resource and advisor concerning enforcement matters to other CAAP employees.
- d) May fly the CAAP owned aircraft in support of the Annual Enforcement Surveillance Plan.
- e) Participates in training seminars to Industry stakeholders at their request, concerning the CAAP Act, the CARs and the Aviation Enforcement programme.



Part 3 – Prevention

3.1 Routine Inspections

Routine Inspections should normally be conducted before issuing or renewing a Philippine Civil Aviation Document (CAD) in order to confirm compliance with applicable standards. These inspections involve the examination of aircraft, aeronautical products (appliances, parts, components, etc.) cargo, premises and facilities relating to aeronautics.

3.2 Inspection Authority

The Civil Aviation Authority Act of the Philippines of 2008 (ACT), more specifically, Section 38, authorizes the Director General or his Designate to conduct inspections for the purpose of enforcing the Act. It therefore authorizes designated Inspectors/Pilot Examiners to inspect aircraft, operator facilities and aerodromes without restriction and at any time or any place.

3.2.1 Entry for Inspection

For the purpose of inspections, Inspectors/Pilot Examiners shall normally enter aircraft or premises with the owner, employee or other representative being present or giving consent. An Inspector's authority to enter aircraft, aerodromes, facilities or premises to conduct inspections shall be provided to each inspector, in accordance to his need to exercise his/her delegated authority and shall be listed upon the Inspector's personal Identification and Delegation Card.

3.2.2 Inspection

- a) The Inspector shall provide reasonable notice to the operator to make available, the aircraft, or facility for the purpose of inspection.
- b) The Inspector is authorized to give the CAAP Air Traffic Controllers an instruction to prevent an aircraft from taking off and /or to cause it to land, if such instruction is in the Public Interest and is not likely to affect aviation safety. The Inspector is authorized to request an air traffic control unit to deny start-up and take off clearance if it is in the public interest and only to prevent an unsafe situation from becoming critical. This authority is derived from Section 39 of the Act. The Inspector is authorized to request assistance from the Police as may be necessary, in conformance with the functions exclusively provided by the Act and is to be exercised by the Philippine National Police and other concerned government agencies.

3.2.3 Production of Documents

An Inspector's authority to demand the production of documents and records is derived from the Implementing Provisions and CARs (IRRs) of the ACT, Section 27, (1), (c), i).

3.2.4 Obstruction

Any Person wilfully obstructing or impeding an Inspector during an inspection contravenes Act, Section 81 (Penalties), (5) and is subject to fines ranging from 20 000 Pesos to 100 000 Pesos

3.2.5 Search Warrant

No Dwelling house may be entered by an Inspector, except with the permission of the owner or rightful occupant, or by virtue of the execution of a search warrant, signed by a Judge. To execute a search warrant a member of the Philippine National Police shall be present at the time of the execution of such warrant.

3.2.6 Use of Force

If during the execution of a search warrant, entry into a dwelling house has been refused, or there are reasonable grounds to believe that entry will be refused, the required force is to be executed by members of the Philippine National Police and only as a result of a direct request for assistance by the Director General or his Delegate.



3.2.7 Seizure of Evidence

The Power to seize evidence derives out of the Act, Chapter XI, Section 79, which authorizes the DG to conduct investigations, based upon the Provisions of the Court, prescribed in the legal processes of the Philippines. For the purpose of inspection or investigation, Inspectors/Pilot Examiners are authorized to seize anything found in any place entered, if they believe, on reasonable grounds, that the item seized will afford evidence with respect to a contravention. Anything to be seized without the benefit of a search warrant, must be found by the Inspector without resorting to a search or must be provided voluntarily by a representative of the premises or aircraft being inspected.

3.2.8 Return of Evidence

Any item seized during an inspection or investigation shall be returned to its rightful owner within 30 days of the seizure, unless the item is required during a comprehensive investigation. Upon conclusion of the Case Report, the item shall be returned to its rightful owner.

3.3 Urgent Action

An Inspector must take action without delay when encountering a situation where there is a threat to Aviation Safety. Most Inspectors/Pilot Examiners are delegated the authority to exercise the following safety powers: Detention of Aircraft and Suspension of a Philippine Civil Aviation Document.

3.3.1 Detention

The authority for detention is found in the Act, Chapter VII 'The Director General', Section 39(B), which says in part: the Director General may take such necessary steps as are necessary to detain such aircraft.

Inspectors/Pilot Examiners may detain any aircraft they believe, on reasonable grounds, is unsafe or is likely to be operated in an unsafe manner, and they may take reasonable steps to ensure its continued detention. Once the grounds for detention (e.g. unsafe condition) have been removed, the aircraft must be released.

3.3.2 Suspension of a Philippine Civil Aviation Document (CAD)

The Director General may suspend a CAD on the grounds that an immediate threat to aviation 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 CAD. The authority for the suspension is found in Chapter VII of the Act, Section 35, Subsection (s). It authorizes the Director General to suspend a CAD, provided that an appeal may be made within 15 days of suspension, to the Board of Directors of the CAAP, whose decision will be final. Once the Director General has made a decision to suspend a CAD he must notify the functional authority within the CAAP, i.e. AANSOO, ANS, FSIS (OPS, AW, PEL) etc. of his decision in writing. Suspension of a CAD shall come into effect immediately and remains in effect until such time as the aviation threat is removed. Reinstatement of a CAD is considered by the appropriate functional authority and is not considered to be an enforcement matter.

3.4 Surveillance

3.4.1 Presence

The most effective method of enhancing safety within the aviation community is to provide a regulatory presence aimed at promoting voluntary compliance with the Act and the CARs. These objectives can best be achieved by CAAP personnel participating in structured surveillance activities. Surveillance may either be routine or special-purpose.

3.4.2 Routine Surveillance

Routine surveillance, which includes audits, base inspections, CAD renewal inspections and ramp checks, is conducted in the normal course of the CAAP inspector's duties of monitoring day-to-day aviation activity. When contraventions of CARs are detected, Inspectors/Pilot Examiners are responsible for completing a Detection Notice for submission to the Enforcement and Legal Services Division. These forms may reveal problems, trends or threats to aviation safety. Accordingly, this information can often provide the impetus for planned surveillance.



3.4.3 Special Purpose Surveillance

Special purpose surveillance is directed at specific areas, events and activities by the CAAP Inspectors/Pilot Examiners. Most surveillance done by Inspectors/Pilot Examiners is of an overt nature; that is, undisguised and designed to deter regulatory infractions and to encourage voluntary compliance through a visible presence. It is also designed to detect violations.

3.4.5 The Enforcement Surveillance Plan

The Surveillance Plan is a plan designed to establish a balanced and systematic approach to surveillance and makes the best use of available resources of the CAAP.



Part 4 – Detection

4.1.1 Introduction

Detection is the discovery of a possible violation of the Act or the CARs. Sources of detection are diverse and may result from activities such as inspections, audits and surveillance. Sources of detection also include police reports and public complaints.

4.2 Initial Enforcement Process

CAAP Inspectors/Pilot Examiners must take action on observing or being apprised of a contravention. All Inspectors/Pilot Examiners are responsible for completing a Detection Notice Form and forwarding it without delay to their respective Chiefs of Division. The inspector or Chief of Division may address immediate operational considerations through the exercise of their delegated powers.

If the contravention is considered minor, the Inspector may simply orally counsel the CAD holder and fill out the detection notice form. If the contravention is of a more serious nature, the Inspector must as soon as practicable refer the incident and all the collected evidence to his/her Chief of Division. The Chief of Division shall review the information in the Detection Notice for his/her own information and pass it on to ELS for further action.

The decision to conclude the matter with an oral counselling is the Inspector's. However, the detection notice must still be forwarded to ELS, as it is required for statistical purposes and trend analysis. In the event that the counselled person has received counselling concerning this matter before, or perhaps other members of an operator have also been counselled regarding the same matter, a comprehensive investigation may be mandated.

4.3 Oral Counselling

Oral counselling provides the Cad holder with immediate guidance on the need for future compliance. It is an option for Inspectors/Pilot Examiners when the imposition of a sanction is not considered necessary and when all the following conditions are satisfied:

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

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

4.3 Contraventions concerning the Transportation of Dangerous Goods by Air

This section is yet to be developed

4.4 Inspectors/Pilot Examiners Flying as Passengers

Inspectors/Pilot Examiners flying as passengers have, due to their knowledge of Aviation and the Law concerning Aviation, a Duty of Care to speak up, when they become aware of an immediate threat to aviation safety or a situation that if not stopped, would in their opinion, become an immediate threat to aviation safety. In this event, they should identify themselves to a member of the cabin crew as a Civil Aviation Inspector and apprise the crewmember of the immediate threat to aviation safety.



4.5 Inspector's Off-Duty Actions

Inspectors are not expected to conduct surveillance during times when they are not working. However, if an inspector becomes aware of a contravention or an immediate threat to aviation safety, he/she is obliged to act. Once the situation is stable and no longer represents an immediate threat to aviation safety, a Detection notice shall be filled out and an initial investigation conducted. The normal procedure for follow-up may then be used. As the Inspector would be on his/her off time, any time spent in this situation shall be compensated for in accordance with the Pay and Benefits policy of the CAAP.

4.6 Analysis of Legislative Provisions

Analysis of legislation provides a procedure for examining offence-creating provisions to obtain a precise interpretation of a regulation and if the facts and evidence support an allegation of a contravention. The decision to continue or terminate a case is often based upon the results of the analysis of legislation. Enforcement Inspectors/Pilot Examiners shall complete an analysis of each provision that has been contravened for each case where a comprehensive investigation is conducted.



Part 5 – Investigation

5.1 Introduction

An investigation is a systematic search for documentation of the facts relevant to an event. All CAAP Inspectors/Pilot Examiners are responsible for detecting and reporting alleged violations by implementing the initial enforcement process. Only enforcement Inspectors who have been trained as Investigators will conduct investigations. All investigations must be thoroughly and meticulously completed, since the resulting action may both affect individual rights and public safety.

5.2 Priorities for Investigation.

Priority shall be given to investigation originated by any Government of the Philippines or by the Director General's direction. For all other violations, the Chief Enforcement and Legal Services shall assign priorities based upon safety impact to the aviation industry.

Following an accident a comprehensive investigation file shall be opened and a systematic review of the validity of licenses, ratings, certificates etc., at the time of the accident must be carried out. This review must be done regardless of whether the accident was as a result of a violation. As a matter of course, any perishable evidence that might have a bearing on the accident must be secured without delay. Once the initial steps have been completed, the file should be kept open until the CAAP Aircraft Accident Investigation Board has issued their report or unless the evidence supports that no violation took place.

5.3 Warnings

In order to comply with the Philippine Charter of Rights, an Investigator has the duty to advise and warn an alleged offender. To ensure that the rights of an alleged offender are not violated, a warning as follows shall be given before the alleged offender is asked any questions:

You have the right to remain silent and refuse to answer questions.

Anything you do say may be used against you in a court of law.

You have the right to consult an attorney before making a statement and to have an attorney present during questioning now or in the future.

If you cannot afford an attorney, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without an attorney present you will still have the right stop answering at any time until you talk to an attorney. Do you know understand your rights?

Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?

5.4 Co-ordination between CAAP Divisions and Outside Agencies

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



5.5 Case Reports

A case report is a summary of the facts drawn up by an Investigator for use by the Chief ELS. It is mandatory that a case report be prepared for each file, whether a sanction is recommended or not.

5.6 Disclosure of Information

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

If a Board of Directors hearing is scheduled, the dispatch of the disclosed information should be arranged so that the CAD holder receives the information at least 30 calendar days before the hearing date, or as soon as is practicable, if the hearing is before 30 days. Full disclosure may take place earlier on the request of the subject of the investigation.

The purpose of the full disclosure is as follows:

- 5.6.1 To ensure the CAD holder knows the case to be met and is able to make full answer and defence;
- 5.6.2 To encourage the resolution of facts at issue, and
- 5.6.3 To encourage the resolution of the case prior to the hearing.

5.7 Full Disclosure

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

- 5.7.1 Particulars of the circumstances of the case;
- 5.7.2 Copies of relevant written statements (these may include witness statements, investigative notes and summaries)
- 5.7.3 An opportunity to examine electronic statements and/or other medium such as air traffic control tapes;
- 5.7.4 Particulars of the CAD holder's enforcement record, if applicable;
- 5.7.5 Copies of relevant documents and photographs that the Investigator intends to introduce into evidence during a hearing;
- 5.7.6 A copy of any search warrant obtained and executed during the investigation. Caution must be exercised where privileged information is at issue;
- 5.7.7 A copy of the notice of assessment of Monetary Penalty or suspension of the CAD;
- 5.7.8 Particulars of relevant information intended to be relied upon at the hearing and any information known to the Investigator that the CAD holder may use to impeach the credibility of a CAAP witness in respect of the facts at issue in the case;
- 5.7.9 If applicable, a copy of the flow chart relating to an airworthiness matter; and
- 5.7.10 The names of witnesses, their employment and their address, unless there is evidence to indicate that the witness will be harassed or intimidated prior to the hearing. The witness should be informed of the action, and inquiries should be made whether there is any problem anticipated.

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



5.8 Exceptions to full Disclosure

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

- 5.8.1 Information concerning a confidential informant, an ongoing investigation, or investigative techniques;
- 5.8.2 Information that may be considered confidential by the government of the Philippines;
- 5.8.3 Information that cannot lawfully be disclosed or that would be injurious to international relations, national defence or security if disclosed.

5.9 Search Warrants – Investigations

If there are reasonable grounds to believe during an investigation that the required evidence to support a charge is to be found in a dwelling place, a search warrant may be required. Once a decision is made to obtain the evidence by execution of a search warrant, the powers of entry and seizure are no longer applicable.

- 5.9.1 If the occupant refuses entry or surrender of evidence 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 by the Judiciary pursuant to the Rules of Court and other Special Laws of the Philippines.
- 5.9.2 The approval of the Director General shall be obtained prior to requesting a search warrant.
- 5.9.3 The authority to use force is inherent in a search warrant. Any use of force shall be carried out by a member of the Philippine National Police. The Investigator shall not use force.

5.10 Return of Evidence – Investigations

Because a search warrant is obtained under the auspices of the Rules of Court and other special Laws of the Philippines, anything seized during the search is subject to the provisions stipulated under the Rules of Court and other Special Laws and must be returned to its rightful owner under its appropriate section.

Evidence that was seized with the consent of the owner shall be returned in accordance with Part 2, Section 2.2.8 of this Manual.

5.11 Medical and Optometric Information

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

5.12 Handling of Electronic Recordings of Interviews and Conversions

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

5.13 Cockpit Voice Recorder / Flight Data Recorder

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

5.14 ATS Data

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



5.15 Cases with Certification Implications

Where Philippine Air Operators are involved in contraventions that may have certification implications, such as AOC, AMO, AMD, etc., the Chief ELS shall consult with the Chief FSIS concerning any possible sanction.

5.16 Special Investigations

5.16.1 Contraventions by Military Aircraft

Philippine military aircraft and foreign National military aircraft, when operated under the auspices of the Philippine military, are exempt from the Act and the CARs.

5.16.2 General Contraventions

During a routine visit, inspection or audit or any other occasion, when a CAAP Inspector becomes aware of a contravention by an air carrier crew member or employee, the Inspector is obliged to make note of it and to report the essential facts. The Detection Note is the vehicle for reporting. Pertinent evidence must also be seized and forwarded with the Detection Notice. The Inspector may orally counsel an alleged offender but only the Director General may take punitive action.

5.16.3 Contraventions Detected during an Audit or Inspection

When during an Audit or Inspection a contravention is discovered, the Audit or Inspection shall be stopped and the manager of the organization briefed concerning the finding. The focus of the audit or Inspection shall be changed to an Investigation.

5.17 Contravention of Foreign Legislation by Philippine CAD holders

When a Philippine CAD holder is alleged to have violated foreign aeronautics legislation that has a direct Philippine equivalent, the investigation shall proceed under the applicable Philippine provision as if the contravention had occurred in the Philippines. Where the allegations relate to a regulation without a direct Philippine equivalent and where the contravention is confirmed, the Director General may proceed administratively or judicially under Chapter XI of the Act (Penalties), Section 82, (General Penalties).

5.18 Contraventions involving Foreign Civil Aircraft Operators

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

5.19 Foreign Private Aircraft

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

5.20 Contraventions in Philippine controlled Oceanic Airspace

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

5.21 Balloon Operations, Ultra-light Aeroplanes, Unmanned Air Vehicles, and special Aviation Events

The standards of the above-mentioned activities are enforced in the usual manner. Where no Provisions, CARs or standards exist, a comprehensive investigation into the details of the allegation shall nevertheless be conducted and where necessary, forwarded to the Philippine National Police for action.



5.22 Requests from foreign Civil Aviation Authorities

Full cooperation shall be provided to foreign civil aviation authorities that request assistance from the CAAP.

5.23 Tort Protection and Misconduct of CAAP Personnel

5.23.1 Tort Protection

CAAP employees, contractors and consultants, who, within the limits of their functional job description, are the cause of a material or intellectual loss, shall be held harmless by the CAAP and shall not be penalized in any fashion whatsoever and shall be protected from legal civil action.

5.23.2 Misconduct

CAAP employees, contractors and consultants, who outside of their functional job description, are alleged to be guilty of misconduct, are subject to investigation by the Enforcement and Legal Service Division of the CAAP and to possible legal action under Philippine Civil Law.

Any criminal misconduct, revealed as a result of a CAAP investigation, shall be forwarded to the Philippine National Police for action.

5.24 Investigation of Suspected Unapproved Parts

The CARs require Philippine CAD holders to report the discovery of suspected unapproved parts to the CAAP. These CAD holders are required to report, using a Service Difficulty Report (SDR) Form. Although the SDR programme has been developed to identify technical and design shortcomings with civil aircraft, it can also be used for reporting the use of suspected unapproved parts that might be used on those aircraft, and as a result, may occasionally report technical problems that are related to contraventions of the CARs. In order to avoid duplication of efforts within the CAAP as well as to integrate the procedures, the Enforcement and Legal Service Branch will investigate any such case in concert with the Airworthiness Division of the FSIS.



Part 6 – Deterrent Action

6.1 Introduction

When a violation of the Act or the CARs is confirmed at the conclusion of a comprehensive investigation, the proper deterrent action to impose is determined. This is a critical decision in the enforcement process since it may significantly affect an individual's attitude towards aviation safety and towards compliance with the Provisions in the future.

In keeping with the Aviation Enforcement's policy of fairness and firmness, the ultimate goal of a deterrent action is to protect the individual and the public from possible harm. The other objectives are to encourage future compliance and to deter others from contravening aeronautics legislation.

6.2 Types of Deterrent Action

6.2.1 Judicial Action refers to the prosecution of a person in the criminal courts and is available only for offences under the Act, Section 81 (Penalties), Section (5) (b) (5) through (14). The actions that may be taken by the courts include fines and prison terms.

6.2.2 Administrative Action comprises all measures pursuant to the Act, other than judicial action. It includes the assessment of monetary penalties, the suspension and/or cancellation of Civil Aviation Documents, Prohibitions, oral counselling and orders for additional training.

6.3 Cancellation of Documents

Cancellation of a CAD shall not be used as a deterrent by and of itself. An inability to meet the required standard to hold the document as well as a recommendation that it is not in the public interest for the offender to hold the CAD must be submitted before this determination may be made. In addition a ruling may be made that an offender, who has serious or multiple offences, shall not act as a required post holder in the organization of the holder of an AOC, if it is deemed not to be in the public interest.

6.4 Defences: Necessity, due Diligence and Officially Induced Error

In certain cases where a contravention can be proven or is admitted, the alleged offender may be able to raise a defence based on necessity, due diligence or officially induced error. Where the defence of necessity is established, 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). In order to establish a defence of due diligence, the alleged offender must show that all reasonable steps (due diligence) were taken to avoid committing the offence.

The defence of officially induced error is available where an alleged offender has reasonably relied upon the erroneous legal opinion or advice of an official who is responsible for the administration or enforcement of the particular law. It must be proved that the alleged offender relied on the legal opinion or advice of the official and that this reliance was reasonable.

6.5 Application of the Defence

Any one of the defences mentioned above can be raised by the alleged offender during the investigation or at any time before a decision to take enforcement action has been made. If the decision is made that the defence is accepted, the case must be closed with no further action.

6.6 Limitation Period

The Statute of Limitations for offences under the Act where an indictment under the Penal Code of the Philippines is contemplated shall be the limitation specified under that legislative provision.

For infractions where a monetary penalty or suspension of a CAD is contemplated, the limitation period shall be 12 months from the time that the infraction occurred. Nevertheless, in certain cases where the infraction is discovered long after the event and suspension would have been contemplated because of the seriousness of the offence, it is appropriate to take action even though 12 months have passed.



6.7 Joint, Direct and Vicarious Liability

Joint deterrent action may be taken against the person directly liable for a contravention and the person vicariously liable for the contravention. This may be done when both parties are responsible for causing the contravention to occur.

6.8 Joint Judicial - Administrative Deterrent Action

Judicial 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 does not rely on the same facts. For example, if a charge of reckless or negligent flying relied on the fact that the pilot was low flying, the pilot could not also be proceeded against for low flying.

A prosecution for one offence may be accompanied by suspension for another offence only where facts that provide evidence for both legislative provisions are not relied upon. Judicial and administrative deterrent action shall not be taken in respect of the same contravention. Either one or the other shall be selected, depending on the facts of the particular case.

6.9 Disclosure of Deterrent Action

Employers of CAD holders should be advised of the deterrent action taken if the contravention took place whilst the alleged offender was on company business at the time of the contravention. Although aero-medical information should normally be suppressed, if the contravention involved flying whilst under the influence of alcohol or prohibited drugs, in the interest of public safety, such finding shall be disclosed to the employer.

Employers of foreign document holders may be advised of deterrent action taken if the contravention took place whilst the alleged offender was on company business. The foreign country's cultural/political situation should be taken into consideration. The Director General will decide on a case-by-case basis.

6.10 Notification of Detection Source

The detection source shall be notified of the outcome of the investigation.

6.11 Administrative Action

Where violations may have or had an impact on safety, the alleged offender may be dealt with by either a suspension of their CAD or by assessment of a monetary penalty. Suspension of a CAD is appropriate when a monetary penalty would be inadequate to achieve compliance or the document holder is a repeat offender against whom monetary penalties have previously been assessed.

Where a monetary penalty has been assessed against an alleged offender, the Chief of Enforcement and Legal Service shall send a Notice of Monetary Penalty to the alleged offender. This notice shall be personally served or sent by registered mail. If the penalty is not paid by the due date, and an appeal for review of the assessment has not been made to the Board, the alleged offender is deemed to have committed another offence. In such a case, the Director General has the authority to order suspension, refusal to amend or renew until the penalty is paid. If the alleged offender continues to exercise the privileges of his suspended CAD, the new offence shall be investigated under the provisions of the Act, Chapter XI, Section 81, Subsection (b), (1), which says in part: Any person who operates any aircraft without a valid or current licence, rating or in violation of rule, regulation or order.

6.12 Judicial Action

Judicial action is available only for the fourteen hybrid offences under the Act, for which a prison sentence is mandated. Any such case shall be prosecuted under the rules of court and other Special Laws of the Philippines. Depending on the seriousness of the contravention, certain hybrid offences may be prosecuted by way of summary conviction; all other violations shall be prosecuted by summary conviction.



6.13 Policy for Selection of Judicial Action

Where a person contravenes a Rule or Regulation, the Director General must determine whether to administratively suspend a CAD or to initiate judicial action. The Department of Justice (DOJ) has the final decision on whether or not to prosecute. However, three classes of criteria shall be considered in all cases where judicial action is contemplated.

Judicial action is mandatory where the alleged offender does not hold a CAD and wilfully does any act or thing in respect of which a CAD is required.

Judicial action *is recommended* where:

- 6.13.1 In the opinion of the DG, the offence committed by an air operator is such that a penalty of up to 500 000 Pesos or a prison term should be sought in a court prosecution (fines imposed by a court could be significantly higher);
- 6.13.2 The case has been initiated by the Philippine National Police and it is mutually agreed that the judicial action is appropriate; or
- 6.13.3 The alleged offender has committed one of the 14 offences under the Act where wilfulness is an issue.
- 6.13.4 The alleged offender's actions have caused a significant threat to aviation safety or have resulted in material loss, injury or death.

Judicial action *may be considered* where:

- 6.13.5 In the opinion of the DG, a suspension would not provide a sufficient deterrent (in the event that the alleged offender has an extensive history of violating the CARs and previous administrative sanctions have not been effective in deterring non-compliance);
- 6.13.6 The nature and magnitude of the offence requires court prosecution and national publicity; or
- 6.13.7 The alleged offender has a non-compliant attitude.

The decisions above should be based on the factors listed above and the recommendations of the DOJ Counsel, the ADG ELS and the Investigator's recommendation.

6.14 Liaison with the Department of Justice

The Enforcement and Legal Service Division should provide advice on case specifics, such as particular charges, to the DG and the Board of Directors, prior to approaching the DOJ. It is clear that once the case has been turned over to the DOJ, it becomes the responsibility of the DOJ and that the CAAP will act as a resource and provide expert advice only. Communication with the CAAP is strictly at the discretion of the DOJ.

6.15 Sanctions

6.15.1 General

Section 83 of the Act prescribes the determination of the amount of penalties and other considerations that should be given before a recommendation for sanction can be made. To ensure uniformity when applying sanctions, it is recommended that investigative procedures be adhered to as closely as possible. A recommendation for sanction may be varied from what is recommended, however, the recommendation must be justified.

The following will be considered in the interpretation and use of recommended sanctions:

- 6.15.1(a) The sanction may be moderated in light of mitigating circumstances (events that were inadvertently caused by misunderstanding, misconception or an honest mistake);
- 6.15.1(b) In some circumstances, the pilot-in-command, registered owner, operator or operator of an aerodrome or other facility, may be proceeded against for the actions of another person;



6.15.1(c) A second offence is considered to have taken place when the record of a previous similar offence is still on the offender's file; and

6.15.1(d) Sanctions for a second and all subsequent offences should be higher than previous sanctions.

6.15.2 Factors Affecting Sanctions

6.15.2(a) What was the role of the Offender, perpetrator or accomplice?

6.15.2(b) Was there any pressure or undue influence exerted by an employer or an employee?

6.15.2(c) Were there any mitigating circumstances such as poor weather, improper air traffic control instructions etc.?

6.15.2(d) Was there threat to safety?

6.15.2(d) Was there any actual harm done?

6.15.2(d) Was there careless or reckless conduct?

6.15.2(e) Are there any prior sanctions on record?

6.15.2(f) Are there any related offences?

6.15.2(g) Is there a question of competence or qualification involved?

6.15.2(h) Would the recommended sanction achieve public safety?

6.15.2(i) Will the sanction act as a deterrent?

6.15.2(j) Will the sanction promote future compliance on part of the offender?

6.15.3 Sanction Determination in Cases of Multiple Violations

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

In cases of multiple violations the following policy shall apply:

6.15.4 Administrative Action

For multiple violations the Notice of Assessment shall include in the statement of offence:

6.15.4(a) The particulars of each offence, including the date and time of each flight in violation; and

6.15.4(b) The sanction proposed in respect of each violation.

Evidence to prove each individual infraction shall be secured so that, in the event of a review by the Board or the Judiciary, the evidence can be presented.

6.15.5 Prosecution

In the case of a summary conviction offence involving multiple violations where prosecution is the desirable option, the CAAP Board shall be advised of the DG's intention to lay charges in respect of each flight conducted in contravention of the CARs; that is, each flight should be set out as a separate count.

6.15.6 Termination of a Continuing Violation

A continuing violation that was the subject of enforcement action but has not ceased may need further action to secure compliance. Section 80 of the Act expressly deals with cease and desist orders issued by the DG. Failure to abide by such an order may be cause to prosecute the offender



under the Rules of Court and other Special Laws of the Philippines. If the offender is an air operator, a viable option is to suspend or cancel an air operator's AOC.

6.15.7 Flights with Intermediate Stops

Notwithstanding section 5.15.3 dealing with multiple violations, flights involving intermediate stops made on a scheduled or unscheduled basis may, 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, it may be appropriate to lay charges in respect of the entire flight, as opposed to considering separate offences for each segment of the flight. A submission may be made when speaking to sentence, emphasising the fact that during each segment of the flight there was a decision to operate in violation of the CARs.

6.15.8 Sanction Negotiation

The alleged offender, who has received a Notice of Assessment of Monetary Penalty or a Notice of Suspension, has an opportunity, within 30 days, to accept the sanction or to apply for a hearing with the Board of Directors to appeal or negotiate the sanction. Failure to apply within the 30-day period shall imply acceptance of the sanction.

6.15.9 Entering into Sanction Negotiation

If prior to receiving the Sanction, the alleged offender wishes to speak to sanction with the Director General, sanction negotiation shall not be entered into, if the finding of a contravention is disputed or the violation is associated with the cost of doing business.

6.15.10 Penalty Reduction

The following factors shall be considered when deciding if the original penalty should be reduced:

- 6.15.10(a) Evidence of mitigating factors not previously identified during the investigation;
- 6.15.10(b) The alleged offender's enforcement record (lack thereof);
- 6.15.10(c) The seriousness of the offence;
- 6.15.10(d) The attitude of the alleged offender towards future compliance;
- 6.15.10(e) Whether deterrence can still be achieved through a negotiated settlement;
- 6.15.10(f) The financial burden to the CAAP to pursue proceedings on the alleged offender, and
- 6.15.10(g) Whether negotiations with the alleged offender would bring the enforcement programme into disrepute.

The sanction must not be reduced by more than 30% except in extraordinary circumstances and if this is the case, the reasoning for such a reduction must be provided in the final case report.

6.15.11 Function of the Board Of Directors

Section 24(e) and (d) describe the appellate powers of the Board. Application to the Board may be made by an alleged offender to appeal a summary conviction prior to paying a monetary penalty. A suspension of a CAD takes effect immediately upon receiving the Notice of Suspension and is not rescinded or modified, unless so decided upon by the Board. In that case and in consultation with the Director General, the Board shall instruct the CAAP to re-issue a notification affecting the change.

6.15.12 Burden of Proof

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

6.15.13 Case Presenting Officer (CPO)



The CPO represents the Director General. He/she presents evidence and makes representations on behalf of the Director General and may act as expert witness in judicial proceedings. The CPO would normally be one of the legal staff of the Enforcement and Legal Service's division but may also be the Investigator of the case.

6.15.14 Role of the CAAP Inspector/Examiner

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

6.15.15 Written Reasons for Determination

The decision taken by the Board after an appeal shall be in writing and addressed to the Director General, who will instruct the ELS to make appropriate changes in the alleged offender's case.

6.15.16 The Board's Decision Confirmed

Where the Board upheld the DG's issue of a sanction, the Board shall in writing, advise the DG that the appeal was unsuccessful.

6.15.17 Appeal of the Board's Decision

If the appellant is not satisfied with the board's decision, he may appeal the decision by submitting his case to the Office of the President (OP). If still not satisfied, the appellant may submit his/her case to the judiciary at his/her expense. Until such time as the OP overturns the decision of the DG and/or the Board, any penalties issued by the CAAP shall be submitted to in full and in compliance with the time elements of the sanction. Failure to be in compliance with the sanction shall be considered to be another violation.

6.15.18 Enforcement and Legal Service's Appeal

The DG may appeal the Board's decision for the following reasons:

- 6.15.18(a) The Board erred in Law when making a determination or an order, whether or not the error appears on the face of the record;
- 6.15.18(b) The Board based its determination or order on an erroneous finding of fact that was made by the appellant and without regard for the material before it;
- 6.15.18(c) The appellant introduced new evidence that is disputable or requires clarification;
- 6.15.18(d) The Board decided inappropriately the issue as to sanction or based its determination on factors other than those required for deterrent action.



Part 7 – Technical Information

7.1 Records Management

7.1.1 Removal of Notation of Sanction

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

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

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

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

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

7.1.2 Retention of Records

Aviation enforcement files shall be retained for the minimum time required by Law.

7.1.3 Destruction of Files

The Director General and the Chief of Enforcement and Legal Service shall review each file slated for destruction. Destruction of the file shall be accomplished by shredding the documents.

7.1.4 Control of Enforcement Records

All aviation enforcement records and CADs shall be treated as controlled documents. Enforcement and Legal Service personnel shall ensure that these documents and records are secured when work areas are left unattended.

7.2 Miscellaneous

7.2.1 Communications with the Media

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

7.2.2 Access to Information

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

7.2.3 Personal Information

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



7.2.4 Corporate Information

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

7.2.5 Public Release of Enforcement Action

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

7.2.6 Police / Department of Justice / Foreign Agency Reports

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

7.2.7 Third Party Interests

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

7.2.8 Matters before the Courts

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

7.2.9 Criticism of the CAAP

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

7.3 Official Forms

- 7.3.1 Detection Notice
- 7.3.2 Letter of Investigation
- 7.3.3 Letter of No Further Action
- 7.3.4 Notification of Results to the Detection Source
- 7.3.5 Transfer of Possession Form
- 7.3.6 Sample Statement Form
- 7.3.7 Notice of Suspension or Cancellation of an CAAP issued Document
- 7.3.8 Aircraft Detention/Grounding Notice
- 7.3.9 File Control Form

DETECTION NOTICE

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

Details of Alleged Offender

Name: _____

Address: _____

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

Aircraft Details:

Aircraft _____ type: _____;

Registration: _____

Narrative

Alleged Violations

Details of Witnesses

Name: _____

Address: _____

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

Preliminary Investigation Findings/Action Taken

Recommendation: Comprehensive Investigation No Further Action

Inspector: _____; Signature: _____; Date: _____

Decision: Comprehensive Investigation No Further Action

Assigned to: _____; Case file number: _____

Chief, ELS: _____; Date: _____

File:

Date:

Name and address block

Dear Mr/Ms,

Subject: LETTER OF INVESTIGATION

I am investigating a possible violation of the Civil Aviation CARs (CARs) and/or the Civil Aviation Authority Act of 2008 (Act).

An aircraft bearing the Philippine National Registration PR-CXXX was observed to ... (Narrative).

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

It is requested that you present yourself at the CAAP headquarters, Enforcement and Legal Service Division, where you will be given an opportunity to explain what took place.

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

Yours truly,

RUBEN F, CIRON, PhD

Director General

Civil Aviation Authority of the Philippines

Date

Date:

Name and address block

Dear Mr/Ms,

Subject: NO FURTHER ACTION

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

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

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

This matter is now closed.

Best regards,

RUBEN F, CIRON, PhD
Director General
Civil Aviation Authority of the Philippines

Date

Date:

Name and address block

Dear Mr/Ms,

Subject: NOTICE OF INVESTIGATION RESULTS

This is in response to your occurrence report dated xxxxx, concerning xxxxx, at xxxx.

An investigation was carried out concerning the (alleged) incident and revealed that a contravention (was or was not) committed. The document holder has been (suspended/ referred to the courts/found to be not guilty) for/of having committed an offence.

Therefore, with the interest of promoting aviation safety in mind, we thank you for having brought this incident to our attention.

This matter is now closed.

Best regards,

RUBEN F, CIRON, PhD
Director General
Civil Aviation Authority of the Philippines

Date

Date:

Name and address block

Dear Mr/Ms,

Subject: NOTICE OF SUSPENSION

An investigation into an allegation that you contravened certain provisions of the Civil Aviation Act of 2008 or the Civil Aviation CARs of the Philippines revealed the following:

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

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

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

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

Yours truly,

RUBEN F. CIRON, PhD
Director General
Civil Aviation Authority of the Philippines

DATE

Date:

Name and address block

Dear Mr/Ms,

Subject: AIRCRAFT DETENTION/GROUNDING NOTICE

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

The aircraft's CofA is not valid because (Narrative).

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

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

Yours truly,

RUBEN F. CIRON, PhD
Director General
Civil Aviation Authority of the Philippines

DATE

File Control Form, Case No. _____

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

I agree with the recommendation(s)

I do not agree with the recommendation(s)

Reasons:

Assistant Director General - ELS

Date

INSTRUCTIONS/RECOMMENDATION:

DECISION:

RUBEN F. CIRON, PhD
Director General
Civil Aviation Authority of the Philippines

DATE



Date:

Name and address block

Dear Mr/Ms,

Subject: NOTICE OF MONETARY ASSESSMENT

An investigation into an allegation that you contravened certain provisions of the Civil Aviation Act of 2008 or the Civil Aviation CARs of the Philippines revealed the following:

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

As a result of your actions, the Director General has decided to assess a monetary penalty of XXXXXXXX Pesos against you.

You are hereby directed to pay the total assessed penalty on or before *thirty days of the assessment* to the CAAP.

Full payment of the amount shown above will be accepted in complete satisfaction and no further proceedings under the Civil Aviation Authority Act of 2008 shall be taken against you in respect of the contravention(s).

If you wish to make an application for an appeal to the CAAP Board of Directors to review the penalty assessment, you may do so within the thirty days provided.

If the full amount of the assessment has not been paid by the date mentioned above and a request for an appeal to the Board has not been received by the CAAP within thirty days of the assessment, other charges under the Act may be laid.


Yours truly,

RUBEN F. CIRON, PhD
Director General
Civil Aviation Authority of the Philippines

DATE



Aircraft Detention Notice Tag



Civil Aviation Authority of the Philippines
MIA Road, Pasay City, 1300 Manila
Tel: 879-9286

AIRCRAFT DETENTION NOTICE

It appears that this aircraft, RP-_____, a _____, is likely to be flown in circumstances that the flight would be contrary to the Civil Aviation CARs and is likely to be a threat to public safety. Accordingly, this aircraft is hereby detained under Section 39 of the Civil Aviation Authority Act of 2008, for the following reason:

Signature: _____; Name/Id No.: _____; Date: _____.