



ICAO

*International Civil Aviation Organization*

The Fifth Meeting of the Asia/Pacific  
Aerodrome Assistance Working Group (AP-AA/WG/5)

*Maldives, 13 to 16 March 2023*

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**Agenda Item 8: AP-AA/WG Task List**

**ASIA-PACIFIC GENERIC AERODROME ENFORCEMENT POLICY AND  
PROCEDURES MANUAL**

(Presented by Malaysia and India)

**SUMMARY**

This paper presents a Generic Aerodrome Enforcement Policy and Procedures Manual to assist States in administering their aerodrome safety oversight system.

**1. INTRODUCTION**

1.1 In accordance with the AP-AA/WG Task 4/1, Malaysia and India jointly drafted the Generic Aerodrome Enforcement Policy and Procedures Manual to assist States in administering their aerodrome safety oversight system.

**2. DISCUSSION**

2.1 The generic manual is available in **Attachment A** for review and consideration by the working group.

**3. ACTION BY THE MEETING**

3.1 The meeting is invited to:

- a) review and revise, as appropriate, the generic manual; and
- b) if the generic manual is acceptable, endorse the Draft Conclusion for submission to the AOP/SG for its consideration for publication on the ICAO APAC Website.

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<b>Draft Conclusion/Decision AP-AA/WG/5 – xx: Asia and Pacific Generic Aerodrome Enforcement Policy and Procedures Manual</b>	
<b>What:</b> That, the Generic Aerodrome Enforcement Policy and Procedures Manual ( <b>Attachment A to WP/09</b> ) developed by the AP-AA/WG be published on the ICAO APAC Website.	<b>Expected impact:</b> <input type="checkbox"/> Political / Global <input type="checkbox"/> Inter-regional <input type="checkbox"/> Economic <input type="checkbox"/> Environmental <input checked="" type="checkbox"/> Ops/Technical
<b>Why:</b> To assist State which have not completed the implementation of aerodrome certification for all international aerodromes and/or with an AGA EI below 75%.	<b>Follow-up:</b> <input type="checkbox"/> Required from States
<b>When:</b> 6-Jul-23	<b>Status:</b> Draft to be adopted by Subgroup
<b>Who:</b> <input checked="" type="checkbox"/> Sub groups <input checked="" type="checkbox"/> APAC States <input checked="" type="checkbox"/> ICAO APAC RO <input type="checkbox"/> ICAO HQ <input type="checkbox"/> Other:	

—END—

**ASIAN AND PACIFIC GENERIC  
AERODROME ENFORCEMENT POLICY  
AND PROCEDURE MANUAL**

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# 1 GENERAL

## 1.1 Introduction

1.1.1 It is the responsibility of aerodrome operators to comply with the requirements of the aerodrome certification regulations. Aviation safety at aerodromes depends primarily on voluntary adherence to the States requirements by the aerodrome operators.

1.1.2 Enforcement is the action necessary when compliance to the requirements is not present. Enforcement requires administrative or legal action depending on the severity of the violation of the regulations and its impact on aviation safety.

1.1.3 In determining the appropriate type and measure of sanction to be applied, the factors to be considered may include the nature of the violation, whether it was deliberate or inadvertently caused; the potential or actual hazard to aviation safety created by the violation; the aerodrome operator's level of responsibility; records of previous violations; the aerodrome operator's attitude toward the violation, including whether the aerodrome operator voluntarily disclosed the violation and whether action was taken to correct it; the impact of the proposed sanction on the violator and its value as a deterrent to other aerodrome operators in similar situations.

## 1.2 Definitions

1.2.1 In this paper:

**Authorized officer** is a person appointed by CEO/DGCA under section XX of Act;

**CEO** means Chief Executive Officer of the CAA;

**Person** includes ordinary person and/or corporate entities;

## 1.3 Objectives

1.3.1 CAA derives its responsibility to conduct the safety regulation of civil air operations by the way of the following statues and national legislations thereunder:

- a) Civil Aviation Act
- b) Civil Aviation Authority Act
- c) Civil Aviation Offences
- d) Carriage by Air Act

- e) Civil Aviation Regulations
- f) Civil Aviation (Aerodrome Operations) Regulations
- g) Civil Aviation (Security) Regulations

1.3.2 The objectives of this paper are to provide:

- a) Enforcement policy and procedures;
- b) Roles and responsibility of CAA's officers;
- c) Description of the enforcement tools available; and
- d) Description of the aids to enforcement.

## **2 RESPONSIBILITIES**

### **2.1 CAA's authorized officer**

2.1.1 It is the responsibility of the CAA's authorized officer to:

- a) Gather or receive the information and evidence, which supports a recommendation for an action;
- b) Seek advice and input from Director of Aerodrome Standards or any relevant divisions;
- c) Assist the appropriate persons in CAA Division by providing information and advice, as necessary;
- d) Serve or arrange for the service of the non-compliance report to the person(s) affected;
- e) Give an opportunity to the affected person(s) to give his version in writing;
- f) Take any follow-up action that may be necessary (including the provision of technical and operational assistance) action or litigation; and
- g) Provide any other information or take any action, as deemed necessary.

## **2.2 Director of Aerodrome Standards**

2.2.1 Director of Aerodrome Standards shall:

- a) Ensure that their division is organized, staffed and equipped to perform its assigned functions and duties;
- b) Lay down the administrative procedures for the authorized officer in order to ensure their smooth and efficient functioning;
- c) Seek advice from the Legal Advisor, if required, in relation to any legal issue;
- d) Ensure that the enforcement activities conform to:
  - 1) Acts;
  - 2) Regulations;
  - 3) Directives, Circulars, Notices; and
  - 4) Procedures laid down by CAA.
- e) Liaise with the aerodrome operators to ensure smooth and efficient executions of the safety oversight functions;
- f) Submit a report to the CEO/DGCA's office the results of investigation/inspections as soon as possible;
- g) Ensure that the authorized officers carry out investigation and enforcement training in their respective fields regularly;
- h) Ensure that the authorized officers hold credentials, necessary authorizations and qualifications and provided with all necessary guidance material, checklist and all the tools and amenities needed;
- i) Liaise with the other Division to provide each other with specialized advice on all arising matters;
- j) Ensure that the objectives of the enforcement are met and that the system of enforcement is updated and institutionalized to meet the changing situations.

## **2.3 Legal Advisor**

2.3.1 Upon completion of investigation and the Director is of the opinion that is an offence under the relevant Act and Regulations, the completed report will be sent to Legal advisor.

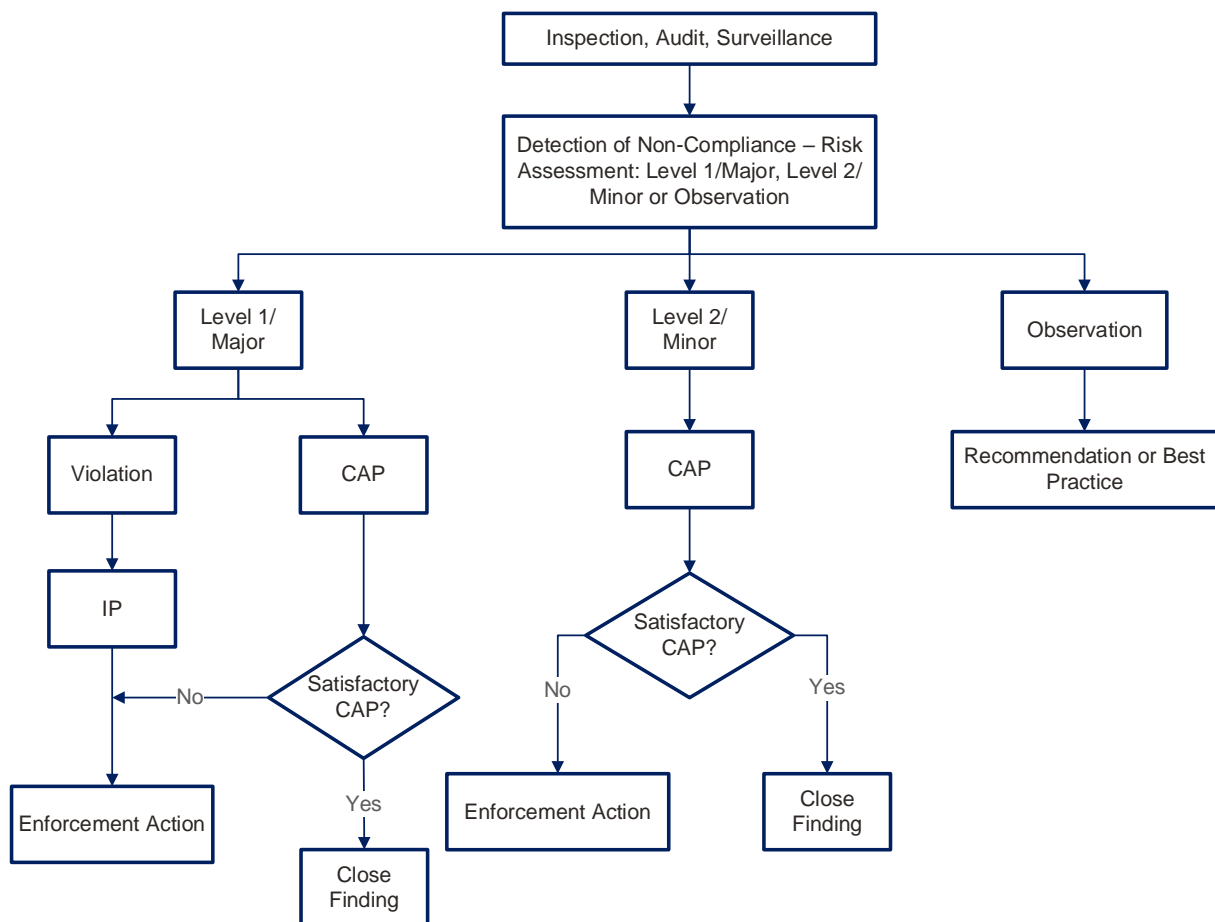
2.3.2 The Legal Advisor will deliberate on the findings and will decide as follows:

- a) To advise whether the evidence is sufficient, if not Legal Advisor to instruct further investigation;
- b) To list summary of finding with relevant references;
- c) To make recommendation on the findings to CEO/DGCA, with a copy to Director if the offences warrant a warning letter or any other consequences;
- d) To minute the Investigation Paper to Attorney General's Chamber (AGC) for further action for the purpose of prosecution; and
- e) To refer to other Division in the event there are needs and urgency in notifying other agency in case of deficiency detected.

### 3 SURVEILLANCE AND DETECTION

#### 3.1 Introduction

3.1.1 Figure below shows the general workflow for the enforcement procedure:



**Figure 1 – Workflow of enforcement procedure**

## **3.2 Surveillance**

- 3.2.1 Once an aerodrome operator has been issued a Certificate of Aerodrome, a surveillance inspection/audit will be conducted to ensure that the certificate holder meet their obligations under the terms of the certificate as set out in conditions, limitations and certification requirements.
- 3.2.2 Under an effective surveillance system, all necessary evaluations are effectively performed by qualified personnel, based on national requirements and following a formal and comprehensive process. The outcomes of the evaluations should be properly documented and recorded, with all pertinent records and evidence kept by the CAA. Such records are necessary to prove the effectiveness and ensure traceability of the certification activities performed.

## **3.3 Detection**

- 3.3.1 Detection is the discovery of a possible contravention against legal provisions. It may result from activities such as inspections, surveillance programs, regulatory audits, incident reports, complaints from the public or police reports.
- 3.3.2 When authorized officer is informed of, or observes a contravention or becoming aware of any immediate threat to aviation safety, he must take action.

## **3.4 Policies and procedures during inspections**

- 3.4.1 The authorized officer shall not enter any premises which are locked or where the aerodrome operator or his representative is not present.
- 3.4.2 The authorized officer shall identify himself using his authority card.
- 3.4.3 The aerodrome operator may be informed prior to the inspection being conducted.
- 3.4.4 If the validity of the document cannot be determined readily, a photocopy, photograph or other accurate record or facsimile should be made before returning the document to avoid keeping the document longer than necessary.

## **3.5 Levels of non-compliance**

- 3.5.1 Level of non-compliance are as follows:
  - a) Level 1/Major:

Where the CAA determines a non-compliance with the relevant requirements and/or safety performance of an organisation or individual has fallen to the extent that there is a potential to seriously affect or there is a significant risk to aviation safety/security, a Level 1/Major finding will be made.

**Action:** The authorized officer will take action in accordance with the relevant act, regulation, directives, circular or notice whichever applicable, which may result in provisional or substantive suspension of the certificate, or a proposal to revoke the certificate. The authorized officer may also consider the need for possible prosecution. Immediate corrective action shall be required for all Level 1/Major findings, and before the suspension is lifted.

b) Level 2/Minor:

Where the CAAM Inspector identifies a non-compliance with the relevant requirements but determines that the nature of that non-compliance is such that there is no immediate risk to aviation safety/security, a Level 2/Minor finding will be made.

**Action:** The authorized officer will require the organization or individual to develop Corrective Action Plan (CAP) acceptable to the authorized officer that will restore compliance within an agreed timescale. Failure to remedy the non-compliance within the timeframe may result in enforcement action.

c) Observation:

Observations will usually be raised as the result of an audit or inspection when best practice is not being followed, or when it is anticipated that the auditee, although currently in compliance, is unlikely to remain so unless appropriate action is taken.

**Action:** The authorized officer may provide advice and guidance to industry on how non-compliance might be avoided. The authorized officer expect industry to take this advice seriously and act on it appropriately.

## **4 INVESTIGATION**

### **4.1 Introduction**

- 4.1.1 An investigation is a systematic search for and documentation of the facts relevant to an event so that a decision to take appropriate action can be made.
- 4.1.2 When a detection of contravention is discovered, an investigation must be carried out.

### **4.2 Oral Counselling**

- 4.2.1 Oral counselling provides the alleged offender with immediate counselling on the need to comply with the legal provisions. It is an option for the authorized officer when the contravention is minor and inadvertent or violation has no direct flight safety hazard and the imposition of a severe administrative action such as suspension or revocation of the certificate is considered inappropriate.
- 4.2.2 Oral counselling would be most appropriate in cases of ignorance or misinterpretation of the legislative provisions, provided that aviation safety is not jeopardized, i.e. a minor contravention having little or no impact on safety or where there is no willful intent. This can be determined by assessing all aspects of the contravention and the attitude of the alleged offender to determine whether oral counselling would secure future compliance.
- 4.2.3 In case of a doubt as to whether to initiate a technical investigation or an oral counsel, the relevant Head of Unit to be consulted for direction.
- 4.2.4 In any case, a report should be made to the Director for his attention and forms a record of the offender that may give an indication of minor habitual transgressions. In this circumstance, a full technical investigation that will lead to more severe enforcement action will be necessary.

### **4.3 Initiation of a technical investigation**

- 4.3.1 If during the course of an inspection, a contravention is detected which is serious in nature such that an immediate threat to aviation safety is imminent, the lead auditor/authorized officer (with the consent of the lead auditor) will carry out a preliminary technical investigation.
- 4.3.2 The investigation should record the following facts (this will also aid the preparation of the preliminary enforcement action report):

- a) The act or omission constituting the contravention and the relevant legal provisions;
- b) The names of the people involved and the names and contact details of any possible witnesses;
- c) The time, date and location of the contravention;
- d) Other pertinent information; and
- e) A list of all documents, which has been secured.

#### **4.4 Technical Inquiry**

- 4.4.1 TI is an internal inquiry and will be conducted if there is a need to investigate after an accident/incident or if there is a report of occurrence. It is conducted to find out the fact of the accident/incident/occurrence for the management to act and possibly provide remedial plan.
- 4.4.2 On completion of TI, if there is enough evidence to show non-compliance or violation to relevant requirements, enforcement action may be instituted. An IP will be required if legal action is to be instituted.

### **5 PRELIMINARY ENFORCEMENT ACTION REPORT**

#### **5.1 Introduction**

- 5.1.1 The Preliminary Enforcement Action Report provides a method of systematic compiling and summarizing all information pertinent to the case so that the concerned authorized officer can quickly become familiar and conversant with the case without the need to review in detail to complete contents of the file.
- 5.1.2 This report shall be prepared where there are possibilities the person has committed a deficiency rather than violation which may lead to administrative action.

#### **5.2 Preparation of Preliminary Enforcement Action Report**

- 5.2.1 The report shall be prepared on the following lines:
  - a) The cover sheet shall contain identity of the person, the deficiencies and the name of authorized officer;
  - b) Case synopsis providing a quick overview of situation;
  - c) Certificate details;

- d) List of evidences;
- e) The person's enforcement history;
- f) Package rounded off with authorized officer's recommendation(s) in which any mitigating or aggravating circumstances may be outlined; and
- g) Copy of compliance order (if applicable).

## **6 ACTION**

### **6.1 Introduction**

6.1.1 There are two (2) types of action that may be taken, either administrative action or legal proceedings or both.

### **6.2 Administrative actions**

6.2.1 Administrative action that may be taken are:

#### **6.2.1.1 Warning or caution**

- a) Result of the violation is not expected to have threat on the safety of aircraft operation; warning may be issued in cases of minor contravention or first timer.
- b) Letter to the person who committed contravention stated the nature of violations or non-compliance and why such act resulted in enforcement action.

#### **6.2.1.2 Suspension**

- a) Regulation XX of Civil Aviation Regulations provides the Authority that may suspend, vary or revoke an authorization, certificate, licence or approval issued.
- b) Suspension is an action whereby a certificate is to be invalidated for a certain period of time.
- c) Suspension will be made for the following situations:
  - 1) Accident or incident that resulted in injury or fatality to people or damage to an aircraft or property; or
  - 2) A person fails to take action despite repeated warnings by the Authority of discrepancies or breach of requirements.

- d) When a suspension is required, the person shall bring in the certificate and 'NO EFFECT' stamp will be stamped together with the start and end date of the suspension and signed by the Authority.
- e) Should the suspension be lifted, a new certificate shall be printed and signed, and the suspended document shall be retained for record keeping.

#### 6.2.1.3 Variation

- a) Regulation XX of Civil Aviation Regulations provides the Authority that may suspend, vary or revoke an authorization, certificate, licence or approval issued.
- b) The various options available as follow:
  - 1) Degradation of the certificate issued;
  - 2) Reduce the validity period of certificate issued; or
  - 3) Limit the operational capability of the aerodrome.

#### 6.2.1.4 Revocation

- a) Regulation 193 of Civil Aviation Regulations 2016 and Regulation 64 of Civil Aviation (Aerodrome Operations) Regulation 2016 provides the Authority that may suspend, vary or revoke an authorization, certificate, licence or approval issued.
- b) Revocation is a process whereby a certificate is completely invalidated in case of serious validation provision.
- c) A letter informing the nature of violation or omission, the decision to revoke and the need to return the certificate concerned for revocation by the Authority must be sent to the person as soon as possible.

### 6.3 Legal Proceedings

6.3.1 As a result of the investigation carried out it is found that a serious contravention of legal provisions is committed, the Authority on the advice of the Legal Advisor may refer any serious violation of legal provisions to the AGC for legal action. The Legal Advisor shall forward all the necessary evidence, but not limited to the following:

- a) Record of investigation which include summary of facts, summary of findings and list of witnesses;
- b) The decision and grounds for such decision of the Director;

- c) Notes of the Technical Inquiry;
- d) Preliminary Enforcement Action Reports;
- e) Statement and documentary evidence obtained; and
- f) Document recommending an appropriate legal action on the alleged offender i.e. compound or court proceedings.

6.3.2 The Legal Advisor may advise the case to be further investigated if it is found that the documents compiled are not sufficient.

6.3.3 The authorized officer, in his finding and/or upon receipt of a complaint lodge to him, may issue a notice of compound to the person and/or company whom he reasonably suspected of committing an offence, after completion of Investigation Report and the officer has to entails the details of the offence including appropriate quantum of the offence. The finding will then brought to the attention of the Legal Advisor before seeking the Authority approval.

6.3.4 The offer may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and if the amount specified in the offer is not paid within the time specified in the offer or within such extended period as the Authority may grant, prosecution for the offence may be instituted at any time after that.

6.3.5 As stated under Section XXX of CAA Act amount of compound must not exceed 50% of the maximum fine of the offence which will be paid into and form part of the CAA fund and no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

## **7 SANCTION DETERMINATION IN CASE OF MULTIPLE OR CONTINUING VIOLATIONS**

### **7.1 Multiple violations**

7.1.1 Multiple violations involve a series of distinct and separate contraventions of a particular regulation(s) over a period of time. For example, the circumstances of the offence may be different depends on proximity of time, place, continuity of action and community of purpose in relation to the offence.

7.1.2 In this case, both the administrative and legal action may be considered.

### **7.2 Continuing violations**

7.2.1 There are a number of offences which could be repeated over a period of time as the result of continuing condition or state of affairs.

7.2.2 In the event the person who failed to rectify or make corrective actions is reasonable period of time, the Director bears the responsibility in determining the next course of action based on the technical report and may consult with Legal Office for proper action; depending on the levels of non-compliance.