

## Chapter 08 Special Investigative Procedures

### 8.1 Contraventions by Military Aircraft

The *Nepalese Civil Aviation Regulations* do not apply to:

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

The Director, Flight Safety Standard Department (FSSD) shall forward a detection report to concerned Military / Army Headquarters for any incident involving Nepalese military aircraft or for any incident involving foreign military aircraft operating in Nepal's Domestic Airspace.

### 8.2 Contraventions by Nepalese Aviation Companies

#### 8.2.1 Contraventions Detected during an Audit or Base Inspection

When audit or inspection team members detect an apparent contravention of the regulations, they shall follow the initial violation process including the seizure of relevant evidence. The Audit Manager shall identify all contraventions of the regulations detected during the audit and will determine whether the related information should be forwarded to the Convening Authority during the audit or held for inclusion in the audit report. If the Audit Manager is of the opinion that a contravention discovered during an audit requires immediate action, the Audit Manager shall inform the Chief, Aviation Safety Department of the details and request a comprehensive investigation.

On receipt of the audit report, the Convening Authority, Chief, Aviation Safety Department will jointly determine which contraventions require comprehensive investigation and deterrent action. If, at the completion of a comprehensive investigation, suspension of an Air Operators Certificate (AOC) or Approved Maintenance Organization (AMO) Approval appears to be the most appropriate sanction, the Chief, Aviation Safety Department should consult with and get approval from the DG CAAN before actioning the suspension. See Chapter 10 for other deterrent action considerations.

#### 8.2.2 Contraventions Detected by Other Means

A Civil Aviation Inspector detecting a contravention by an air carrier crew member or employee must follow the initial violation process to record essential facts. A report must then be made to Director, Flight Safety Standard Department (FSSD) who has responsibility to investigate the matter (and the delegated authority to impose a penalty). The inspector or the Director, Flight Safety Standard Department (FSSD) or DG CAAN may address immediate operational considerations through the exercise of functional or safety powers under Nepal, e.g. the suspension of an AOC to avoid an imminent threat to aviation safety, but the matter must be referred for investigation and punitive action

for the contravention. An investigator must coordinate a comprehensive investigation involving any air carrier contravention or airworthiness elements with the specialty functions before making a recommendation on the final case disposition to the Director, Flight Safety Standard Department (FSSD).

Any violation committed by an air carrier employee during other than air carrier business shall be processed as described in Chapter 6.

### **8.3 Contraventions of Foreign Aeronautics Legislation by Nepalese Aviation Document Holders**

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

If the allegations concern a regulation having a direct Nepalese equivalent, the investigation should proceed normally.

In cases where allegations relate to a regulation without Nepalese equivalent and where the contravention is confirmed, the Director, Flight Safety Standard Department (FSSD) may proceed administratively or judicially under Civil Aviation Regulations, 2002.

### **8.4 Special Cases Involving Nepalese Registered Aircraft**

Where Nepalese operators are involved in contraventions which may have certification implications, the Director, Flight Safety Standard Department (FSSD) shall advise the operational authority for that operator.

### **8.5 Treatment of Gross Navigational Errors (GNE) - Oceanic or Domestic Airspace**

Gross Navigational Error is the term used to describe the deterioration in the performance of equipment used by aircraft authorized to fly in oceanic airspace.

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

### **8.6 Contraventions Involving Foreign Civil Aircraft**

Where foreign civil operators are involved in contraventions which may have certification implications, the Director, Flight Safety Standard Department (FSSD) shall advise the operational authority for that operator through proper CAA Channels.

International Civil Aviation Organization (ICAO) rules and agreements, various bilateral agreements between Nepal and other countries impact on the manner in which CAAN deals with contraventions involving foreign civil aircraft. Timely branch-to-branch consultations are mandatory to ensure expedient and effective enforcement actions.

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

### **8.7 Requests From Foreign Civil Aviation Authorities**

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

### **8.8 Contraventions by Nepalese Employees**

Contraventions committed by departmental employees, including Head Quarters personnel, shall be handled in the normal manner. Departmental employees shall not be treated different from any other individual.