

Chapter 12 Table of Sanctions

12.1 General

The Table of Sanctions which follows shall be used as a guideline by a Civil Aviation Official when recommending a sanction and by the DG CAAN when imposing a sanction. Nevertheless, each case must be judged on its own merits and every sanction shall be justified. This step is crucial in the event the decision is reviewed by the Government. To that effect, the tables should be adhered to as closely as possible to ensure uniformity in the levying of sanctions and any deviation from the recommended sanction, given the circumstances of the case, must be justified based on the following factors:

- (1) The sanction may be moderated in light of mitigating circumstances, (events which were inadvertently caused by misunderstanding, misconception or an honest mistake).
- (2) The highest category of document related to the contravention would be the document suspended as a sanction for the contravention.
- (3) A second offence is considered to take place when the record of a previous similar but not necessarily identical offence is still on the offender's file. (i.e within a reasonable period, to be defined by the authority.)
- (4) Sanctions for all subsequent contraventions should be raised from previous sanctions.

12.2 Factors Affecting the Choice of Sanction

- (1) The facts surrounding the commission of the offence
 - (a) what was the role of the offender;
 - (b) was there any pressure or undue influence exerted by an employer or an employee; and
 - (c) were there mitigating circumstances not amounting to a defence?
- (2) The gravity of the offence
 - (a) was a threat to safety posed;
 - (b) was there any actual harm done;
 - (c) did the violation result in an incident or accident;
 - (d) was there careless or reckless conduct; and
 - (e) what is the maximum punishment available?
- (3) The premeditation or deliberateness of the offence and attitude of the offender
 - (a) while "the mental element" is not relevant to guilt in strict liability offences it may be indicative of the offender's attitude;

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

12.3 Air Operator Certificate Suspension

According to the current Civil Aviation Regulations the DG CAan has the authority to suspend/cancel an Air Operator Certificate as a punitive measure.

NOTE:

The sanctions table that follows have described the number of days and monetary amount to be indicated based on CAAN rules and regulations . CAAN officials has to bear in mind that the heftiness of the amount would be indicative of the gravity of the offence, while recommending a sanction.