

## Civil Aviation Authority of Nepal

# Procedure for Detention and Release of Aircraft, 2013

### 1. Authority for Detention

- 1.1 Section 6 of the Civil Aviation Act, 2015 empowers the Government of Nepal (GoN) to detain the aircraft in following conditions:
- a) having regard to the nature of an intended flight, the flight of such aircraft is likely to endanger the safety of persons therein or any other persons or any body's property, or
  - (b) In so far as it deems to be expedient to ensure compliance with any of the provisions of this Act or the Rules applicable to such aircraft, or to prevent violations of any Rule made under Clause (b) of Sub-section (2) of Section 3.
- 1.2 GoN has through the decision of the Council of Minister dated 2070/03/27 (11<sup>th</sup> July 2013) delegated the power under Section 6 of the Civil Aviation Act, 2015 to the Director General of Civil Aviation Authority of Nepal.
- 1.3 This SOP will come into effect immediately after the approval from the GoN.

### 2. Power of Inspector

- 2.1 Sub-rule (2) of Rule 84 of CAAN, Civil Aviation Regulation, 2058 has made provision that the Director General may designate an expert in relevant field as an Inspector and delegate necessary authority for the inspection and investigation pursuant to sub-rule (1).
- 2.2 Sub-Rule 3 of Rule 84 of Civil Aviation Regulations 2058 empowers the CAAN Inspectors with unrestricted access to the aircraft, aerodromes or facilities and places relating to the aviation services for inspection.
- 2.3 Sub-rule 4 of Rule 84 of the Regulation also empowers CAAN Inspectors to stop the operations aircraft, equipment, services, facilities and places with immediate effect in case of the operations of such aircraft, equipment, services and facilities not being safe.

### 3. Exercise of aircraft detention authority by Director General

Director General of CAAN may exercise the power to detain aircraft through the designated Inspectors as outlined in Clause 2.1 in following conditions:

- a) if the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other person or property; or
- b) if it is necessary to ensure the compliance with any of the provisions of the prevailing Acts, Regulations , Requirements relating to the civil aviation or the rules applicable to such aircraft; or
- c) if it is necessary to prevent a contravention of any rules specified in paragraph (b) or
- d) to implement any order made by the appropriate authority of GoN.

#### **4. Procedure for Detention of Aircraft**

As stipulated in clause 2.3, inspector or any authorized official of the CAAN should follow following procedure to carryout detention action.

4.1 Inspectors or authorized person must introduce themselves to the Pilot-in-Command or owner/operator of the aircraft and specify the unsafe condition or unsafe operation which they believe is exist or is likely to exist. They should tactfully try to obtain voluntary compliance in correcting the situation. If unsuccessful, the Officials/Inspectors shall -

- a) again advise the Pilot-in-Command or owner/operator of the unsafe condition or operation and the consequences of failing to abide by the inspector's advice (e.g. detention and/or enforcement action);
- b) where the Pilot-in-Command or owner/operator is unavailable or indicates an unwillingness to comply with the inspector's advice, attach to that part of the aircraft most likely to be seen by the flight crew a written notice of detention specifying the unsafe condition or operation;
- c) if necessary, restrain the movements of the aircraft-
  - I. by requesting ATS Unit to deny taxi and take-off clearances; or
  - II. by blocking it with vehicles; or
  - III. by attaching it to an immovable object; or
  - IV. in extreme cases, and with the assistance of a licensed Aircraft Maintenance Engineer, by judicious and temporary disablement, a record of which must be made in the aircraft log.

4.2 Whenever possible, an aircraft shall be detained without removing it from the custody of its owners or operators. This will permit such persons to make repairs or otherwise remedy the unsafe situation. However, if no other measures have been or are likely to be effective in alleviating the unsafe condition or operation, the aircraft may be taken into the custody of the CAAN. In such cases, all reasonable care shall be taken to preserve and protect the aircraft in the condition in which it was first acquired.

4.2 The information regarding serious safety concern and detention of aircraft should be immediately reported to the Director General by a suitable means of communication e.g. text message, telephone call etc.

4.3 The inspector should make a written notification to the Operator informing him of the serious safety concern noticed and detention of aircraft. A copy of notification will be forwarded to the Director General.

#### **5. Carry out the Necessary Investigation**

5.1 If an Inspector or authorized official of CAAN issues a detention notice, CAAN should carry out the necessary investigation as quickly as possible.

5.2 The officer should initiate an office memo along with the evidence they have collected and a

report on serious safety concern they have observed and in case of violation recommendation on Enforcement action as per Aviation Enforcement Manual to the Director General. The decision taken by the Director General should be informed to the operator through a letter.

5.3 Operations of an aircraft which has been detained is an offence unless CAAN is satisfied that the regulations are being complied with and approves the use of the aircraft, or until such alterations or repairs as CAAN considers necessary to render the aircraft fit for flight have been made.

## **6. Release of Aircraft**

6.1 The Inspector or authorized official of CAAN will recommend for release of aircraft if

- a) the serious safety concern is satisfactorily resolved by the aircraft owner or operator
- b) the reasons for detention no longer exists

6.2 The decision to release the aircraft shall be taken by authorized official higher in rank to the one who had detained the aircraft.

6.3 The release of the aircraft should be reported to the Director General as soon as possible.

## **7. Notification to the Ministry of Culture, Tourism and Civil Aviation**

Director General of CAAN should immediately notify the Ministry of Culture, Tourism and Civil Aviation about the detention and release of an aircraft is made.