

SUBJECT: DGCA COMPLIANCE AND ENFORCEMENT PROGRAM

DIVISION I.**INTRODUCTION****1. PURPOSE.**

This Order describes the authority, responsibilities, policies, guidelines, procedures, objectives, and legal aspects of the Directorate General of Civil Aviation's Compliance and Enforcement Program. It is intended to be an aid in the exercise of discretion of the various DGCA elements involved. It is recognized that this Order does not cover every situation, and there will be cases where deviation from the guidance is warranted. It is expected that DGCA personnel will use their judgment and experience in each case to carry out the policies of the DGCA.

2. FORMS AND REPORTS.

The following forms are stocked in the DGCA Documentation Center and are available through normal supply channels:

- (a) DGCA OPS Form 100-6 (TBD), Violation Report Data – Civil Penalties, Criminal, Certificate Actions, Reprimands, Referrals This form will be prepared, as appropriate, by the Chief of Flight Safety and legal counsel to record final action on all legal enforcement cases.
- (b) DGCA OPS Form 100-7 (TBD), Enforcement Investigative Report. The form will be used by all elements of the DGCA for the reporting of enforcement investigations. An illustrated sample of DGCA OPS Form 100-7 (TBD) is shown in figure 1.
- (c) DGCA OPS Form 100-8 (TBD), Enforcement Investigative Report Log. The form shall be maintained by the DGCA Documentation Control Center.

3. DEFINITIONS.

As used in this Order, the following definitions and abbreviations are applicable unless the context clearly requires otherwise:

"ASRP" means Aviation Safety Report Program.

"EIR" means an Enforcement Investigative Report.

"Act" means the Lebanese Civil Aviation Safety Act, as amended.

ORDER

REPUBLIC OF LEBANON
MINISTRY OF PUBLIC WORKS AND TRANSPORT
DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

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DIVISION II.**COMPLIANCE AND ENFORCEMENT OBJECTIVES AND POLICY****1. PURPOSE.**

This Order sets forth the general policies and objectives of the DGCA's compliance and enforcement program.

2. THE NEED FOR A COMPLIANCE AND ENFORCEMENT PROGRAM.

(1) A central mission of the DGCA is to promote aviation safety and security in civil aeronautics. To achieve this, the DGCA establishes regulatory standards and requirements, found in the Lebanese Aviation Regulations (LARs), under the following statutory direction:

- (a) the Lebanese Civil Aviation Safety Act, as amended, places a duty on the Minister to prescribe reasonable rules and regulations and minimum standards in the public interest.
- (b) Article(s) (TBD) of the Lebanese Civil Aviation Safety Act requires that the Minister consider the following, among other things, as being in the public interest:
- (c) the regulation of air commerce in such a manner as to best promote its development and safety; and
- (d) the promotion, encouragement, and development of civil aeronautics.
- (e) Article(s) (TBD) of the Lebanese Civil Aviation Safety Act requires that the Minister prescribe rules and regulations "requiring practices, methods, and procedures necessary to protect persons and property aboard aircraft operating in air transportation against acts of criminal violence and aircraft piracy."
- (f) Article(s) (TBD) of the Lebanese Civil Aviation Safety Act requires the DGCA to give full consideration to the duty resting upon air carriers "to perform their services with the highest possible degree of safety in the public interest."
- (g) Article(s) (TBD) of the Lebanese Civil Aviation Safety Act specifically provides that one of the considerations the Minister must make as being in the public interest and in accordance with public convenience and necessity is the prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the government to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

(2) The DGCA's compliance and enforcement program is designed to promote compliance with both the statutory and the regulatory requirements. The program ranges from educational and remedial efforts, including administrative action, to punitive legal enforcement remedies, including **criminal** sanctions in the most serious cases.

(3) This program is applicable to all activities regulated by the DGCA for which legal enforcement penalties are prescribed. When violations occur, whether they involve the operation of an airport, the production of aircraft, the performance of aircraft maintenance, or the operation of aircraft, DGCA personnel must take the action most appropriate to achieve future compliance.

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES**3. COMPLIANCE AND ENFORCEMENT PHILOSOPHY.**

(1) *Voluntary Compliance.* Civil aviation safety and security depend primarily on voluntary adherence to legal requirements. Thus, one of our foremost efforts to achieve compliance should be directed toward programs to promote a clear awareness and understanding of the governing regulations.

(2) *Education.* Education must be an ongoing component for a compliance program to be successful. Consequently, DGCA personnel should take advantage of opportunities during their surveillance and inspection activities to enhance a certificate holder's understanding of the regulatory requirements. In addition, education can be fostered through public awareness programs and other special aviation educational efforts.

(3) *Surveillance and Detection.* An important element of an effective compliance program is the prompt discovery of instances of noncompliance. While the DGCA has programs to encourage self-disclosure, surveillance remains the primary method of detecting violations. Consistent with the DGCA's statutory mandates, there must be a particularly high level of surveillance of air carrier operations.

(4) *Notifying Persons of Violations.* In any situation where DGCA personnel identify a potential violation, they should take appropriate steps to notify immediately a responsible person who can take appropriate action to prevent it. DGCA personnel may use such means as counseling, an agreement to take immediate corrective action by the aircraft operator, or the use of the provisions of Article(s) of the Lebanese Civil Aviation Safety Act with respect to air carrier aircraft that are not in condition for safe operation.

(5) *Investigation and Reporting.* When an investigation is warranted, it should be conducted promptly. There must be an unbiased gathering of all facts, focused investigation, and accurate reporting. Poor investigation weakens the effectiveness of the enforcement program. A violation report without all of the facts only leads to delays that compromise the objectives of fair and responsive enforcement. Such reports also can mislead reviewing authorities and result in incorrect or inappropriate actions.

(6) *DGCA Response to Violations.* Every apparent or alleged violation must be investigated and appropriately addressed.

- (a) Firmness. The DGCA has a wide range of options available for addressing violations. They range from simple counseling and administrative action to formal legal enforcement action. Statutory methods for enforcing the requirements of the Lebanese Civil Aviation Safety Act and the regulations governing the safe operation of aircraft include the following:
- (i) amendment.
 - (ii) suspension.
 - (iii) revocation of certificates (Lebanese Civil Aviation Safety Act Article(s) (TBD)).
 - (iv) civil and criminal penalties (Lebanese Civil Aviation Safety Act Article(s) (TBD)).
 - (v) aircraft seizures (Lebanese Civil Aviation Safety Act Article(s) (TBD)).
 - (vi) special investigations and other acts deemed necessary to carry out the provisions of the Lebanese Civil Aviation Safety Act Article(s) (TBD).

Regulations governing the transportation of hazardous materials by air are enforced by the Lebanese Military.

- (b) Compliance and Enforcement Action is Undertaken to:

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- (i) prevent future actions that would violate the regulations (e.g., immediate corrective action after counseling or a letter of correction or warning notice; cease and desist orders; injunctions);
- (ii) impose punitive sanctions to deter violations (e.g., punitive certificate actions or civil penalties); and
- (iii) achieve remedial purposes (e.g., administrative remedial training; voluntary remedial action under the reporting and correction policy; certificate suspension pending demonstration of qualifications; revocation for lack of qualification or competency; or a remedial civil penalty).

(7) *Fairness.* To be effective, the DGCA's compliance and enforcement program must be fair and reasonable in fact, and should be perceived as fair by those subject to regulation. This does not and should not imply an unwillingness to apply the full force of statutory sanctions where warranted. It does encompass the right of an alleged violator to be given objective, evenhanded consideration of all circumstances surrounding the allegations before final action is taken. It also requires good faith efforts to understand the alleged violator's position and take it into account, as well as to apprise the alleged violator of the DGCA's position in a timely manner.

(8) *Timeliness.* The DGCA's discovery of and response to violations also should be timely. Delays in investigation or processing of violation reports can impact the effectiveness of the DGCA's compliance and enforcement program in several ways. Delays may permit an unsafe condition to continue if prompt corrective action is not taken. Delays also de-emphasize the seriousness of a given violation and diminish the deterrent value of any enforcement action taken. The deterrent quality of enforcement action, and effective linking of the enforcement sanction to objective change in compliance behavior, can be realized if investigations are diligently and promptly conducted, and the appropriate sanction is administered within a reasonable time period. By the same token, if the allegations of violation are not sustained, any unwarranted delay in processing the case may impose an unjustified hardship.

The time needed for investigation and processing will vary depending on the complexities involved in each case. Certain cases, because of their effect on safety, including the need for emergency action, will demand immediate involvement of the entire investigative/legal team to resolve regulatory noncompliance quickly, sometimes in only a matter of hours or a few days.

4. GUIDELINES FOR PROCESSING ENFORCEMENT ACTIONS.

(1) *Selection of Enforcement Action.* Responsible DGCA personnel must review the evidence compiled during an investigation to determine whether a violation of the regulations has been committed. If the evidence fails to support a violation or demonstrate a lack of qualifications or competency of a certificate holder, then neither administrative nor legal enforcement action is appropriate. In determining the appropriate enforcement action that should be taken for regulatory noncompliance, DGCA investigative personnel must consider the administrative remedies set forth in Sections (2)(a) through (c) below. The Lebanese Civil Aviation Safety Act sanction guidance should be used only in those cases where a determination has been made that legal enforcement action is warranted.

(2) *Enforcement Remedies.*

- (a) **Reinspection and Reexamination.** When DGCA personnel discover facts that indicate a certificate holder may not be qualified or lacks competency to hold a certificate, the reexamination or reinspection authority of Article(s) (TBD) of the Lebanese Civil Aviation Safety Act should be used. Reexamination or reinspection of a certificate holder does not preclude taking punitive enforcement action when

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appropriate. When a certificate holder fails to comply with a request for reinspection or reexamination, DGCA personnel should follow the procedures of Article(s) (TBD) of the Lebanese Civil Aviation Safety Act.

- (b) Remedial Training (with administrative action). In evaluating evidence of a violation by a certificate holder, appropriate DGCA personnel must determine whether remedial training is appropriate in lieu of legal enforcement action. If a determination is made that remedial training is appropriate, a certificate holder must be afforded an opportunity for training in place of the imposition of punitive action. The corrective action taken must be documented. DGCA personnel should follow the procedures in this Order when remedial training is determined to be appropriate.
 - (c) Reporting and Correction. DGCA personnel must determine whether reporting and correction policies are applicable with respect to violations by air carriers, and other categories of certificate holders to which these policies may be applied. If a certificate holder promptly discloses a violation to the DGCA voluntarily and otherwise meets all of the requirements of the reporting and correction policies, then a letter of correction should be issued.
 - (d) Administrative Action. When DGCA personnel conclude that none of the policies set forth in Sections (2)(a) through (c) apply, then they must determine whether administrative action is appropriate by evaluating the facts surrounding a violation against the criteria set forth in Section 6.
 - (e) Legal Enforcement Action. When DGCA personnel determine that legal enforcement action should be pursued for a violation, they must determine the type and amount of legal enforcement sanction by consulting the Lebanese Civil Aviation Safety Act sanction guidance. DGCA personnel must strictly observe limitations periods imposed by statute or regulation for the initiation of legal enforcement actions.
- (3) *Periodic Program Review of Legal Enforcement Processing.*
- (a) the Chief of Flight Safety should review the status of cases referred for legal enforcement action once a quarter. The purpose for this review is to assess the timeliness and effectiveness of case selection, investigation, initiation, and processing. In addition, the review should include an analysis of: trends; inconsistent case handling; lack of uniform sanctions; repetitious conduct; and any other significant evaluative factors. During this review, the need to reprioritize and process cases warranting the greatest urgency must be considered.
 - (b) if an assessment indicates that more cases are being submitted for legal handling than the DGCA can reasonably be expected to initiate and process, without incurring a substantial or undue backlog, the following action must be considered:
 - (i) reevaluate the cases that are being unduly backlogged, and determine if any alternative enforcement action would be appropriate and warranted.
 - (c) the reconsideration or reassessment of a given sanction is not to be considered a weakening or lack of enforcement resolve. On the contrary, that resolve is most evident when both corrective and deterrent actions are taken in a timely manner. For example, sometimes an administrative closure action, taken immediately after a violation occurs, can serve as a more effective deterrent than an unresponsive or unduly delayed legal action, taken later. There is a wide range of effective tools available to investigative personnel and attorneys, and all of them should be considered in light of the circumstances of each individual case. The tool selected should be the one that most effectively and timely serves to correct the noncompliance and deter future violations.

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- (d) it is the goal of the DGCA to complete Enforcement Investigative Reports (EIR) within 180 days of the time the violation occurred. Cases involving delayed discovery of a violation must be expedited. It is understood that this objective may not always be met because of: lack of resources; case complexity; investigative delays due to noncooperation of witnesses, or difficulty in obtaining evidence; or other higher DGCA safety priorities. But generally, 180 days is the expected DGCA norm within which the investigation will be completed and the case will be given to the Chief of Flight Safety for review and action. Meeting this norm requires the closest cooperation, communication, and teamwork between investigative personnel. Failure to meet the norm in any individual case will not be the sole cause for dismissing that case. Where, however, caseloads regularly fail to meet this norm, there should be a reassessment of DGCA procedures and case management. This does not apply when limitations periods are imposed by statute or regulation for the initiation of DGCA legal enforcement actions. In such cases, those time limits must be strictly observed.
- (e) in cases where reviews indicate that delay is not a factor, there still may be a need to make other adjustments in case handling such as: the consolidation of related cases involving the same airman or operator. These or other similar adjustments should be considered during the review process.

5. PROCEDURES FOR SELECTING COMPLIANCE AND ENFORCEMENT ACTION.**(1) Program Office Responsibilities.**

- (a) the initial priorities of DGCA personnel must be to correct any ongoing noncompliance and to take appropriate action when they determine that a certificate holder lacks the requisite qualifications or competency.
- (b) once the underlying noncompliance is corrected, responsibility for selection of the enforcement remedy that best fits the circumstances begins with DGCA personnel who investigated the case. In most cases, they are in the best position to evaluate various factors, such as the alleged violator's compliance attitude and whether an alternative to legal enforcement action may be sufficient to achieve compliance. Authorizing investigative personnel to make these determinations should also result in prompt action.
- (c) DGCA investigative personnel are expected to exercise sound discretion and professional judgment in making these determinations in accordance with DGCA policies and guidance. The selection of administrative action or legal action must be made in accordance with the guidance and standards contained in this Order.
- (d) DGCA personnel should consider whether application of progressive discipline will achieve the desired compliance. In some circumstances, for example, it may be appropriate to address a first-time violation with a letter of correction. The letter, with its associated corrective action, may be adequate to achieve sustained compliance. Should that approach prove to fail, it may be necessary to impose a punitive legal enforcement sanction, i.e., a civil penalty or certificate suspension, to produce an adequate deterrent to future violations. Repetitive violations by a certificate holder may even demonstrate a lack of qualification warranting certificate revocation. This progressive discipline approach is, however, totally inappropriate in certain aggravated circumstances, such as flying while intoxicated, intentional falsification, and reckless or grossly careless operation of an aircraft.

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- (e) the DGCA's response to noncompliance, particularly the use of legal enforcement action, is intended to deter not only the violator but others as well. DGCA personnel should consider this factor in deciding what action is most appropriate.
- (f) DGCA Chief of Flight Safety will periodically review the determinations of investigative personnel in enforcement cases. The Chief of Flight Safety will look at whether they have adequately considered all relevant facts and circumstances in a case and have explained their choice of enforcement action. This evaluation will help to ensure reasonable consistency in the manner in which violations are handled and that investigative personnel are properly exercising their discretion.
- (g) the DGCA will periodically review to determine whether the DGCA's response to violations is having the desired effect of bringing about compliance. If it is not, actions such as special emphasis programs to target particular violations can be initiated.

(2) *Review of Recommendations of DGCA Investigative Personnel.* In those cases where an enforcement investigative report (EIR) is prepared, it will be reviewed by the Chief of Flight Safety to ensure consistency in the application of DGCA compliance and enforcement policies. In this review, due deference must be afforded the reporting investigative employee's considerations in determining the appropriate action. DGCA personnel at all levels, however, are expected to exercise sound judgment and discretion to propose, modify, and substitute alternative remedies within existing guidance to correct regulatory noncompliance. Deliberations by investigative personnel regarding sanction determinations, as well as communications between investigative personnel and legal counsel, are privileged.

(3) *Responsibility for Deciding the Type of Enforcement Remedy.* DGCA investigative personnel, appropriate to the violation involved, will decide, subject to the criteria in this Order, whether compliance may best be obtained through administrative or legal enforcement action. In making this determination, the Chief of Flight Safety will afford due deference to the investigating inspector's recommendation if it is substantiated.

(4) *Responsibility for Determining Legal Enforcement Sanction.* If legal enforcement action is selected (e.g., certificate action or civil penalty action), the amount of sanction should be determined in accordance with the Lebanese Civil Aviation Safety Act. DGCA personnel should give due deference to sanction recommendations of subordinates if they are properly justified and explained. The amount of sanction sought in a legal enforcement action is the product of a joint determination by the Chief of Flight Safety and legal counsel. DGCA personnel, at all levels, however, are expected to exercise sound judgment and discretion to propose, modify, and substitute alternative remedies to correct regulatory noncompliance, within applicable policy guidance.

(5) *Prosecutorial Discretion.* The Chief of Flight Safety and DGCA Counsel exercise broad prosecutorial discretion in the handling of legal enforcement actions. This discretion extends from the initial determination of whether legal enforcement action is warranted for an alleged violation through settlement of a case. DGCA personnel also exercise discretion in selecting an appropriate amount of sanction for a particular violation, within the parameters of the Lebanese Civil Aviation Safety Act sanction guidance. Through application of the standards and criteria set forth in the sanction guidance policy, DGCA Personnel select the appropriate penalty within the Lebanese Civil Aviation Safety Act based on the relevant facts and circumstances surrounding a violation. In this regard, the Chief of Flight Safety is expected to use sound, rational, prosecutorial judgment to make decisions that further the DGCA's safety mission and the public interest. Subsequent to the initiation of a case, the Chief of Flight Safety and DGCA Counsel, may settle cases, when, in their judgment, the settlement is warranted by the facts and law, other litigation risks, and would prevent unnecessary litigation.

(6) *Informal Communications with DGCA Counsel.* The Chief of Flight Safety should encourage open dialogue and sharing of information and opinions between investigating inspectors and DGCA

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Counsel. Open and informal communication between the investigative and legal staffs will improve the effectiveness of and promote consistency in the enforcement program.

6. ADMINISTRATIVE ACTION.

Where legal enforcement action is not appropriate, a warning notice or letter of correction may be issued as provided in this Order. Administrative Enforcement Action is not to be taken solely as a matter of convenience or where evidence to support a finding of a violation is lacking. The Chief of Flight Safety will decide whether compliance may be obtained best through administrative action or through legal enforcement action, subject to the criteria in this section or other guidance in this Order.

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(1) *Legal Effect.* Administrative actions are not adjudications. Neither a letter of correction nor a warning notice constitutes a finding of violation and, therefore, the opportunity for notice and hearing are not required.

(2) *General Requirements.* Administrative enforcement action may be taken in lieu of legal enforcement action when all of the following elements are present:

- (a) applicable law does not require legal enforcement action;
- (b) lack of qualification or competency was not involved;
- (c) the violation was inadvertent and not deliberate;
- (d) the violation was not the result of a substantial disregard for safety or security and the circumstances of the violation are not aggravated. "Substantial disregard" means:
 - (i) in the case of a certificate holder, that the act or failure to act was a substantial deviation from the degree of care, judgment and responsibility normally expected of a person holding that certificate with that type, quality and level of experience, knowledge and proficiency.
 - (ii) in case the violator is not a certificate holder, the act or failure to act was a substantial deviation from the degree of care and diligence expected of a reasonable person in those circumstances.
- (e) the alleged violator has a constructive attitude toward complying with the regulations;
- (f) the alleged violator has not been involved previously in similar violations; and
- (g) after consideration of elements in Sections 6. (2)(a) through (f), a determination is made that administrative action will serve as an adequate deterrent.

(3) *Evidence of Constructive Attitude.* In making a judgment concerning whether a violator has a constructive attitude, documentation showing the violator's completion of any of the following (including recency of the attendance) may also be considered:

- (a) DGCA-sponsored Accident Prevention Program safety seminars on the subject(s) implicated in the alleged violation;
- (b) DGCA-sponsored, industry-conducted safety seminars on the subject(s) implicated in the alleged violation; r familiarization and educational purposes; and
- (c) other similar safety related programs, acceptable to the DGCA.

(4) *Remedial Training.* A letter of correction will be issued to an individual certificate holder when the following conditions are met:

- (a) the inspector determines that administrative action is appropriate under the criteria set forth in Section 6. (2);
- (b) the inspector determines that remedial training is appropriate corrective action; and
- (c) the individual successfully completes a remedial training program developed in accordance with (TBD by Ops Expert).

(5) *Reporting and Correction.* A letter of correction will be issued to an air carrier, or other category of certificate holder to which the reporting and correction policy applies, when the following criteria are met:

- (a) the inspector determines that administrative action is appropriate under the criteria set forth in Section 6. (2);
- (b) the inspector determines that the certificate holder voluntarily and promptly disclosed the noncompliance to appropriate DGCA personnel before the DGCA learned of it (the initial notification may be made informally, but written notification must be made before administrative action can be considered);
- (c) the certificate holder, upon discovery of the failure, has taken or has begun to take immediate action to correct it; and

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- (d) the certificate holder has taken, or has agreed to take, remedial action satisfactory to the DGCA as may be necessary to preclude recurrence of such failure. Any action agreed to be taken must be in writing and completed to the satisfaction of the DGCA.

7. DETERMINING THE TYPE OF LEGAL ENFORCEMENT ACTION.**(1) *Sanctions for Punitive and Deterrent Purposes, Suspension Action and Civil Penalty Action.***

- (a) General. In general, the primary legal enforcement tool the DGCA uses to enforce its regulations against a certificate holder is certificate action. Where the DGCA, in its discretion, however, determines that there is a substantial adverse impact on the public interest from disrupted service, and that this impact is not outweighed by safety considerations, it is appropriate to take civil penalty action. For example, the DGCA may take certificate action against individual certificate holders and civil penalty action against air carriers, as warranted.
- (b) where there is a need to prevent continuing violations or other egregious conduct, the DGCA will take remedial action as needed, regardless of the impact on the certificate holder. In no case will civil penalty action alone be taken where remedial legal action is necessary or appropriate.
- (c) use of both certificate action and civil penalty action for the same violations. Civil penalty action and punitive certificate action generally should not be instituted against a certificate holder for the same offense. If legal counsel is of the opinion that unusual circumstances in any case justify deviation from this policy, the Chief of Flight Safety may elect to use both.
- (d) Change in Type of Proposed Sanction. The initial enforcement action should reflect the DGCA's best assessment of the appropriate sanction for the violations alleged. Each EIR should include all available information bearing on sanction. After the initial action is issued, the type of sanction ordinarily should not be changed unless additional relevant facts or circumstances are presented to the DGCA, upon which, in its discretion, determines that the initial proposal was inappropriate.

(2) *Legal Sanctions for Remedial Purposes, Certificate Action - Suspension*. Suspension action is appropriate where there is a need temporarily to suspend the privileges of the certificate pending demonstration of qualification. Remedial suspension should ordinarily be used only when the individual does not voluntarily surrender his or her certificate pending reexamination (see Division 7).

(3) *Legal Sanctions for Remedial Purposes, Certificate Action - Revocation*. Revocation of a certificate is used as a remedial measure when the certificate holder lacks the necessary qualifications to hold the certificate. The continued exercise of the privileges of the certificate in such circumstances would be contrary to safety in air commerce or air transportation.

- (a) revocation is appropriate whenever the certificate holder's conduct demonstrates a lack of the degree of care, judgment, or responsibility required of the holder of such a certificate.
- (b) revocation is never used as a means to circumvent dismissal of charges under applicable procedural rules.
- (c) in cases involving individuals, revocation of a certificate or a rating should be sought whenever there is a lack of willingness or ability to comply consistently with the Lebanese Aviation Regulations (LARs). A lack of such willingness or ability to comply may be demonstrated, for example, by repeated or deliberate violations of the LARs or by violations that involve grossly careless or reckless conduct. Also, revocation is ordinarily appropriate in egregious cases such as those involving falsification of records.

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- (d) in cases involving businesses, revocation should be sought whenever there is a demonstration of a lack of qualifications. Revocation would normally be appropriate, for example, in cases involving deliberate or flagrant violations or the falsification of records. Revocation also would generally be appropriate in cases in which the certificate holder has committed the same or similar violations in the recent past, or where the certificate holder no longer has, and does not obtain in a reasonable time, the personnel or equipment to conduct its operation in full compliance with the Lebanese Civil Aviation Safety Act or the LARs.
 - (e) Article(s) (TBD) of the Lebanese Civil Aviation Safety Act mandates certificate revocation when an airman has been convicted of violating certain National or State statutes relating to a controlled substance and (a) an airplane was used in the commission of the offense and (b) such person served as an airman, or was aboard the aircraft, in connection with commission of the offense or the facilitation of the commission of the offense. Article(s) (TBD) of the Lebanese Civil Aviation Safety Act also requires the revocation of the registration certificate of any airplane used in the commission of such an offense when the use was permitted by the owner of the aircraft with knowledge that it would be used for such purpose.
 - (f) given the relationship between a lack of qualification and the public safety, a decision to revoke ordinarily warrants invoking the DGCA's emergency authority (see Section 7. (4)).
- (4) *Emergency Suspension or Revocation of Certificates.*
- (a) whenever it is determined that the public interest and safety in air transportation or air commerce require the immediate effectiveness of a suspension or revocation, an Emergency Order should be issued. The authority to issue such orders is contained in Article(s) (TBD) of the Lebanese Civil Aviation Safety Act.
 - (b) the emergency authority will not be used for punitive purposes; i.e., to order fixed periods of suspension.
 - (c) emergency action should be taken only:
 - (i) when the certificate holder lacks qualification, or there is a reasonable question as to whether the holder is qualified; and
 - (ii) when the holder is not reasonably able as a practical matter to exercise the privileges of the certificate.
 - A if it is known that a certificate holder is unable to exercise the privileges of the certificate, a notice proposing certificate action should be issued.
 - B if, after a notice has been issued, the certificate holder again becomes able to exercise the privileges of the certificate and an issue of qualification remains, the case should be converted to an emergency case.
 - (d) emergency action should be taken as soon as possible when the need for such action is recognized. Failure to take prompt action does not preclude the issuance of an Emergency Order when it is appropriate. If a significant delay has occurred, however, circumstances justifying revocation or immediate action may have changed, and consideration should be given to reevaluating the case, including, as appropriate, reinspection or reexamination of the certificate holder. For example, by the time action is ready to be initiated, the unqualified or culpable management personnel may have changed and it may be determined that revocation is no longer required. In such a case, another enforcement action may be used to address the previously discovered violations.

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- (e) if there is a reasonable basis to question whether the certificate holder is qualified and the holder might reasonably be able to exercise the privileges of the certificate, emergency suspension action pending successful reexamination should be considered.
 - (f) Oral Orders. Ordinarily, orders of suspension and revocation must be in writing. If necessary, however, to protect the safety of the traveling public and in furtherance of the public interest, the Director General of Civil Aviation, may issue an Emergency Order orally to prohibit an air carrier from operating a particular flight with a particular crewmember or crewmembers or to suspend an airman certificate to ensure the safety of flight of civil aircraft in air commerce or air transportation. An Oral Order must be reduced to writing and served upon the certificate holder as soon as practicable.
 - (g) Early DGCA Coordination. When an investigating inspector becomes aware of a case that might be appropriate for emergency action, that inspector should immediately notify the Chief of Flight Safety who, in turn, should immediately notify the Director General of Civil Aviation. With the earliest possible notification, these officials can then work together to expedite processing of the case.
 - (h) Pre-emergency Action Notification and Briefing. In the case of institutional certificate holders, such as air carriers and repair stations, consideration may be given to notifying the holder in advance that emergency action is considered likely and to briefing the holder on the bases for such action. No certificate holder, however, is entitled to this notification or briefing. A decision on whether to provide this notification and briefing should be made on a case-by-case basis, taking into consideration safety, public interest, and other relevant factors. The DGCA may notify an air carrier that emergency action is under consideration where, for example, that carrier's management personnel have not been involved in the alleged violations, and the carrier is capable of making immediate personnel or other changes that would bring it into compliance and satisfy all safety requirements. In such case, the matter might be resolvable by Consent Order, deferred suspension, or some other means short of revocation.
- (5) *Other Recommended Action*. In addition to the recommendation for legal enforcement action, the Chief of Flight Safety should determine the possible need for any additional or special enforcement action. This may include recommendations for any of the following:
- (a) Seizure of Aircraft. Under certain conditions, when an aircraft is involved in a violation of the LARs and the violation is by the aircraft owner or person in command, the aircraft may be seized. Seizure action, when appropriate, may be recommended regardless of the status of the investigation or legal processing of any prior violation(s).
 - (b) Cease and Desist Orders, Orders of Compliance, and Injunctions. Whenever the inspector determines that a condition requiring immediate action exists, in respect of safety in air commerce or air transportation, the inspector should bring the matter to the attention of the Chief of Flight Safety to consider the appropriateness of issuing a Cease and Desist Order, an Order of Compliance, or initiating action in Civil Court for injunctive relief.
 - (c) Criminal Prosecution. If the inspector's investigation discloses any evidence of willful conduct that could constitute violations of any criminal provisions of the Lebanese Civil Aviation Safety Act, or of any other criminal statute, the inspector should bring this information to the attention of the Chief of Flight Safety. An inspector should not delay a safety investigation, even though an alleged violation may involve possible criminal violations and result in a criminal investigation.

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Where the specific conduct being investigated may also be in violation of criminal statutes, the investigative file should indicate whether or not criminal investigation or prosecution has been initiated, as well as the office responsible for such action.

- (d) Procedure. When it is determined that aircraft seizure, an order of compliance, a cease and desist order, or an injunction action, or criminal prosecution, is appropriate, the inspector should immediately inform the Chief of Flight Safety of the facts and circumstances. The inspector should complete and process an EIR as expeditiously as possible.
- (e) Consent Orders. The Chief of Flight Safety and legal counsel may agree to resolve certain legal enforcement actions with a Consent Order. A Consent Order ordinarily will include an agreement that the violator will take corrective and remedial action as a condition for the suspension or forgiveness of a portion of the sanction or, in some cases, a modification of the proposed sanction. A Consent Order, for example, may be an appropriate means for resolving several pending enforcement actions that demonstrate similar, systemic deficiencies in an air carrier's practices and procedures. In this case, the carrier, with the DGCA's approval, might agree to take prompt corrective action to cure the systemic deficiencies by making improvements to or updating procedures regarding its operations and maintenance practices. This agreement would be set forth in the Consent Order. A carrier's failure to fulfill the agreement within the terms set forth in the Consent Order ordinarily would result in imposition of the entire sanction amount.

8. DETERMINING THE SANCTION AMOUNT.

(1) *DGCA Legal Enforcement Actions; Sanction Guidance Policy*. After determining that legal enforcement action is necessary, DGCA personnel must consult the guidance set forth in the Lebanese Civil Aviation Safety Act sanction guidance.

(2) *Special Emphasis Enforcement Programs*. It is the policy of the DGCA generally to avoid instituting mandatory sanction programs. At times, special situations arise, however, that dictate the need for more effective enforcement through increased sanctions or other measures to bring about compliance in certain areas where existing methods are insufficiently effective. In such circumstances, a special emphasis enforcement program, designed to focus on a particular area of noncompliance, may be instituted on a national or local geographical basis. The following procedures will apply:

- (a) special emphasis should be used only when other methods of obtaining compliance have not been sufficiently effective. Normally, such a program would be established with a fixed expiration.
- (b) a national program will be instituted by the Director General of Civil Aviation. A recommendation for a special emphasis program will be made by the Chief of Flight Safety.
- (c) before instituting a special emphasis program, consideration should be given to what public notice, if any, is needed. In some cases, publicity may not be appropriate; e.g., where only increased surveillance is needed. In other cases, letters to airmen, pilot forums, and even press releases may be appropriate. Before the DGCA institutes a special emphasis enforcement program of general applicability, the public should be informed by a notice acceptable to the Minister. Also, a tracking method should be maintained to evaluate the effectiveness of the special emphasis program on an ongoing basis until termination of the program.

9. COMPLEX OR CONTROVERSIAL ENFORCEMENT CASES.

For purposes of this Section, "complex or controversial" cases are those requiring or warranting substantial coordination among DGCA elements or extensive preparation for potential enforcement litigation.

- (1) The following are examples of potentially complex or controversial cases:
 - (a) alleged violations warranting initiation of a formal investigation in accordance with LARs Part I, Subpart 3.
 - (b) cases involving extensive violations by, or significantly severe penalties against, major institutional respondents (such as air carriers and aircraft manufacturers).
 - (c) cases that, because of the allegations or parties involved, will have national impact.
 - (d) cases involving or that may involve seizure of aircraft or the need for specialized enforcement action such as injunction.
- (2) To ensure the effectiveness of the enforcement program in complex or controversial cases, it is essential that these cases be identified at the earliest possible stage. In all cases, it is the DGCA investigative employee's responsibility initially to determine the investigative effort to be undertaken. These cases can best be identified in terms of the nature and scope of this effort. DGCA investigative personnel should anticipate, to the extent possible, the likelihood that a case will involve complex and substantial issues of fact or will otherwise require a special investigative effort, or will receive unusual publicity.
 - (a) whether the action contemplated is consistent with national policy.
 - (b) whether the case involves controversial regulations; e.g., the use of flight data recorder tapes.
 - (c) whether there are allegations of DGCA "complicity."
 - (d) whether potential criminal violations exist. If so, appropriate coordination with the Department of Justice is required.
- (3) DGCA investigative personnel, through the Chief of Flight Safety, should alert the Director General of Civil Aviation, whenever a complex or controversial case is under investigation. This will enable timely planning of the investigative effort to be undertaken. The Chief of Flight Safety must consult with the appropriate legal counsel to determine, for example, whether an order of investigation is appropriate and what types of records or other evidence should be sought.
- (4) Experience in complex or controversial cases has demonstrated the importance of legal counsel's participation at the investigative stage. Rather than awaiting completion of the report of investigation, the legal counsel should take the initiative early to ensure that investigative personnel are counseled properly in evidentiary matters and that only legally provable violations are pursued. Counsel should personally observe the investigative effort whenever necessary for proper development of the complex case.
- (5) As in all enforcement cases, success in prosecuting violations in a complex or controversial case depends upon the quality of the investigation supporting it. Early involvement by counsel may reduce the need to supplement an investigation after review by counsel.

DIVISION III.

ENFORCEMENT RESPONSIBILITIES

1. PURPOSE.

This Division describes the responsibilities of various DGCA elements in carrying out the DGCA's compliance and enforcement program.

2. COOPERATION AND COMMUNICATION WITHIN DGCA.

- (1) All offices and services, including those which do not have primary responsibility in the enforcement program, shall assist in the execution of the program.
- (2) To assure the highest possible degree of coordination and consistency in carrying out the enforcement program, elements of the DGCA engaged in investigation or prosecution of enforcement cases shall maintain communication with other elements whose responsibilities are or may be affected by such cases.

3. DIRECTORATE GENERAL OF CIVIL AVIATION

- (1) Within DGCA, the Legal Counsel and the Director General of Civil Aviation have the overall responsibility for carrying out the enforcement policies established by the Minister. These offices establish procedures and guidance for implementation of the DGCA's enforcement program, and monitor and evaluate enforcement activities to ensure effectiveness and uniformity. They also handle special investigations and enforcement actions as directed by the Minister. They will advise the Minister of any deficiencies or discrepancies and will undertake any special investigative or enforcement action that may be directed.
- (2) The Director General of Civil Aviation is responsible, pursuant to the Lebanese Civil Aviation Safety Act, for suspending or revoking an aircraft registration certificate for any cause that renders such aircraft ineligible for registration.

4. CHIEF OF FLIGHT SAFETY

- (1) The Chief of Flight Safety implements and manages the DGCA Enforcement Program as prescribed in this Order. All actions taken by DGCA inspectors shall be reviewed by the Chief of Flight Safety to ensure fair and equal treatment and provide assurance that action taken will serve to promote safety and protect the public interest. The Chief of Flight Safety shall ensure that the enforcement program, as well as any individual enforcement action, is handled in accordance with this Order and will periodically provide the investigating inspectors with the status of enforcement actions investigated by those inspectors.
- (2) The Chief of Flight Safety's Inspectors conduct surveillance inspections of persons, aircraft, or operations subject to the regulations to determine compliance with the regulations and any lack of qualifications, and investigate, coordinate, and report violations of all regulations which are discovered and for which they have enforcement responsibility.

5. LEGAL COUNSEL

The Legal Counsel provides legal guidance and counsel on enforcement matters.

6. AIR TRAFFIC SERVICE.

Air traffic control personnel are in a unique position to observe apparent violations or lack of qualification of airmen. Each Air Traffic Service facility is responsible for promptly notifying the DGCA of any incident or complaint which may involve violations of Lebanese Aviation Regulations (LARs) for which the DGCA is responsible. Each facility shall provide the DGCA with factual information concerning such incidents, including tapes, transcripts, etc., as soon as permitted by their air traffic control responsibilities but, in any event, not later than 24 hours after becoming aware of an incident or after a request from a DGCA inspector.

7. ALL DGCA EMPLOYEES.

Any DGCA employee who becomes aware of an apparent violation by, or apparent lack of qualification of, any person subject to the Lebanese Aviation Regulations (LARs), shall report such information to the Chief of Flight Safety. Employees shall cooperate with any further investigation and provide testimony or other information as required. All DGCA employees involved in the enforcement process should be alert to their responsibility to identify problems involving regulations or enforcement procedures which need correction. For example, when a regulation has proven too vague for effective enforcement, or a current procedure unnecessarily cumbersome, the matter should promptly be brought to the attention of the Chief of Flight Safety. The Chief of Flight Safety shall forward the recommended changes to the Director General of Civil Aviation. The Director General of Civil Aviation will acknowledge receipt of the recommendation, and coordinate an evaluation of the recommendation with the office(s) of primary responsibility for the regulation or procedure. The individual making the recommendation will be advised as to any decision or action taken on the recommendation.

DIVISION IV.

INVESTIGATION OF VIOLATIONS

1. PURPOSE.

This Division furnishes the inspector with general guidelines for an investigation. The guidelines are not all inclusive and are not a substitute for common sense and good judgment. The investigation will vary with the type of violation.

2. ROLE OF THE INSPECTOR IN AN INVESTIGATION.

The inspector's role in an investigation is to gather facts, evidence, and documents, to analyze that information, and to make recommendations concerning enforcement actions. The inspector should recognize that Enforcement Investigative Reports (EIR's) may be reviewed by several levels of the DGCA before a DGCA determination is made as to whether DGCA enforcement will be taken and if action is taken, what sanction will be imposed. As a result, if the inspector discusses with the alleged violator the likelihood of enforcement, or possible sanctions, there is a likelihood of misleading the alleged violator or making statements which may later prejudice prosecution of the case. The inspector should, therefore, avoid discussing with the alleged violator or others whether action will be taken and possible sanctions.

3. PLANNING AND INITIATING THE INVESTIGATION.

- (1) Upon receipt of information indicating a possible violation, the inspector should determine whether there is any basis for an investigation.
- (2) Before initiating an investigation, an inspector should consider the circumstances and the nature of the violation, and develop an investigative plan of action. As the investigation progresses, reevaluate the plan and revise as necessary. Coordinate the plan with supervisors, supporting offices, and legal counsel, if necessary. Consider the following:
 - (a) what Article(s) of the Lebanese Civil Aviation Safety Act or regulation is involved in the case? Read the regulation. Determine which elements of the regulation are necessary to establish a violation. Use the elements to form an investigative plan.
 - (b) what evidence is needed? Where is it located? How will it be obtained?
 - (c) what records should be checked? Will they be furnished voluntarily?
 - (d) which witnesses, including the alleged violator, need to be interviewed? At what stage of the investigation should they be interviewed? Are written statements needed?

Information Note: *In all cases a signed statement should be obtained from each witness, if possible.*

- (e) will there be a need for the Minister's power under Article(s) (TBD) of the Lebanese Civil Aviation Safety Act to subpoena witnesses and records?
- (f) is there a possible criminal violation?

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- (g) is there a need for immediate action? Consider an emergency action or other immediate action in situations where delay for routine handling may jeopardize public safety. For instance, an airworthiness inspector who finds an air carrier aircraft about to be used in air transportation, that is not in condition for safe operation, shall notify the air carrier of that condition in accordance with Article(s) (TBD) of the Lebanese Civil Aviation Safety Act, (see figure 2).
 - (h) the plan should ensure the evidence gathered will establish who did or did not do what, where, when, why, and how.
 - (i) re-evaluate the plan.
- (3) In all investigations, an EIR report number (case code number) will be assigned for logging and processing within the DGCA EIR system. It provides future reference to all matters relating to the case. When formal fact finding investigations are conducted by a specially designated team, the team should assure that the DGCA assigns a case code number for the investigation. The special team should coordinate with the DGCA, and prepare an EIR.
- (4) *One Year Rule.* Where the alleged violation occurred more than one year prior to the issuance of the Notice of Proposed Certificate Action, suspension other than for a lack of qualifications, no action will be taken pursuant to the Lebanese Civil Aviation Safety Act, Article 81 bis. To avoid being unable to take suspension action where appropriate, all cases must be investigated expeditiously to afford sufficient time to issue the Notice before one year.

4. LETTERS OF INVESTIGATION.

- (1) Alleged violators are normally notified in writing of a DGCA investigation. The letter should state that a DGCA investigation is being conducted, and should invite comments from the alleged violator on the circumstances of the incident. A copy of the letter should be included in the file. Where additional violations are discovered during the investigation, the inspector should use judgment as to whether another letter of investigation should be sent. Evidence should show that a violation may exist before a letter of investigation is issued. Failure to send a letter shall not obstruct the ongoing investigation.
- (2) In cases involving companies with complex organizational structure, care should be taken to assure that the letter is addressed to the responsible official.
- (3) In the preparation of the letter of investigation, the following guidelines should be observed (see sample letters of investigation, (see figures 3 through 8):
- (a) although the letter is not intended to be a statement of charges, it should inform the alleged violator of the activities being investigated. Specific sections of the Lebanese Aviation Regulations should not be cited unless specific regulatory reference is needed to accurately identify the incident. If the facts and circumstances are adequately presented, the letter of Investigation need only state that there may have been a violation of the Lebanese Aviation Regulations.
 - (b) specify a time limit for reply. Normally 10 days is sufficient. Additional time may be necessary in foreign cases.
 - (c) request that specific relevant documents be retained or made available.
- (4) The letter of Investigation generally is sent by Certified Mail with Return Receipt Requested, so as to establish a record of notice to the party under investigation. If personally delivered, document the delivery in the file.

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(5) If at the conclusion of the investigation there is insufficient evidence to pursue the matter, the inspector may write the alleged violator a letter advising that the evidence is insufficient to support the violation and that the matter is not being pursued. In cases in which there is a reasonable question whether evidence supports a violation, the inspector should consult the Chief of Flight Safety and Legal Counsel prior to advising the alleged violator. See Sample Letter of Notification, (see figure 9).

5. OBTAINING VIOLATION HISTORY AND OTHER INFORMATION.

(1) Violation history and other information needed for the investigation should be obtained at the beginning of the investigation. Violation and accident information may be directly retrieved from the DGCA Documentation Center.

(2) Airman certificate and aircraft registration data may be obtained from the DGCA Documentation Center.

(3) Criminal history and background information should be sought through the DGCA Documentation Center.

(4) Airmen medical records may be obtained from the DGCA Documentation Center.

6. EVIDENCE OF VIOLATIONS.

(1) The object of the investigation is to obtain evidence to establish whether a violation occurred. Evidence includes all the means by which any alleged fact tends to be established or disproved. It is the means by which we prove or establish the facts. If there is doubt as to the relevance of a particular piece of evidence, it should be secured and preserved from the outset.

(2) Evidence may be obtained from any place or source where it is legally available. An investigation at the scene of a violation often will assist the inspector in the collection and analysis of evidence. There is no substitute for the inspector's personal observations, which should be placed in writing as soon as possible. The inspector must not only accurately obtain the facts and circumstances, but must prepare a report which clearly conveys such facts and circumstances.

(3) Hearsay evidence, in many circumstances, may be used to prove violations. Inspectors should not hesitate to report any information that could possibly be used as evidence. Hearsay evidence can be very helpful to the investigator in that it often leads to persons who do have direct knowledge of the incident, or knowledge of important documents. Furthermore, it may be helpful to the attorney in cross-examination of a hostile witness or the person involved. For these reasons, the inspector should report all evidence that could be pertinent to the case.

(4) The types of evidence used to document the investigative report include witness statements, photographs, charts, maps, and diagrams; documents and records; and physical evidence.

7. INTERVIEWS.

(1) Generally, all knowledgeable witnesses of an alleged violation should be interviewed and the information reported. Where there is more than one person who witnessed an incident, the number of those witnesses to be interviewed will depend largely upon the nature of the case, the proof required, and, to some extent, witness availability. Duplicative or repetitive testimony is desirable because it gives weight to the evidence and insures the availability of witness testimony in the event that one or more key witnesses later are unavailable. Selection of the particular witnesses should be based on the likelihood of their knowledge about the incident and their competence to relate the information sought. Some common sources for the identity of possible witnesses are:

- (a) passenger manifests.
- (b) air traffic controllers.

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- (c) records and personnel of organizations, such as air carriers, air taxis, etc.
 - (d) airport personnel.
 - (e) local restaurants or bars that may have served the person.
 - (f) pilots and mechanics who may have pertinent information.
 - (g) persons who work or reside in the area of the incident.
 - (h) health personnel who may have examined the person involved.
 - (i) law enforcement personnel.
- (2) If the inspector witnesses a violation, the inspector should prepare and sign a statement covering all of the pertinent facts of which the inspector has personal knowledge.
- (3) Every effort should be made to interview witnesses face to face or by telephone. The technique used will vary depending on circumstances, but the following general guidelines may be of assistance.
- (a) plan the interview to assure that the interviewer is thoroughly prepared and that the best environment in which to hold the interview is selected.
 - (b) put the person interviewed at ease.
 - (c) maintain control of the interview.
 - (d) assure from the outset that the witness understands that any information furnished may be used as evidence in subsequent enforcement proceedings. No promises of confidentiality can be given without prior consultation with DGCA legal counsel. However, if a witness requests immunity in exchange for information regarding safety, the inspector shall immediately notify the Chief of Flight safety. Immunity will be granted at the discretion of the Director General of Civil Aviation.
 - (e) do not discuss with witnesses any possible enforcement action or sanctions, or grants of immunity. Do not divulge sources of information, except where necessary.
 - (f) request a signed statement.
 - (g) plan questions which will accomplish the objective. The broad or general question often is effective to open up areas of discussion. Specific searching questions are good for getting specific information, clarification, and conclusions.
 - (h) be attentive and listen.
 - (i) take notes if practical to do so. This will vary with circumstances, but if notes are not taken at the interview, make notes immediately after the interview and document the time and date when the interview took place.
 - (j) summarize the interview with the witness to verify the interviewer's understanding and recollection of all pertinent points. Give the witness an opportunity to make any additional comments.
 - (k) prepare a separate report of the interview, including the inspector's own observations and evaluations. Note that this should be a separate item of proof in the EIR, not simply part of Section D.
 - (l) when an essential witness refuses to cooperate, the Minister's authority under Article(s) (TBD) of the Lebanese Civil Aviation Safety Act may be used. See Division 6, Formal Fact-Finding Investigations.
- (4) In many cases the most important witness to be interviewed is the person making the allegation. Frequently in DGCA investigations, the source of an allegation against a company is an employee or agent of that company. The investigation should be planned and conducted to assure that these allegations are verified from other sources if possible before company officials are consulted. For example, if a certificate holder's mechanic reports a violation, every effort should be made to verify the allegation through interview of the reporting mechanic and other mechanics, personal observations, and inspection of company records before contacting company management to discuss the issue. When interviewing company officials, great care must be exercised to provide reasonable protection to the source.

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(5) Where possible, a written statement should be obtained from each witness. The written statement should contain a precise and complete account of those facts pertinent to the violation. It should include what the person said, did, or perceived by his or her senses and the how, when, what, why, and where of that perception. It should also include the witness' complete name, address, telephone number, occupation, and aeronautical experience. Any opinions should be shown as such.

- (a) a written and signed statement is especially important under the following circumstances:
 - (i) when the information is complex, involves data, or is controversial.
 - (ii) when the witnessed incident involves injury or death or a significant aviation incident, such as an aircraft accident or hijacking.
- (b) the best statement is one prepared by the witness. When necessary, however, the inspector may assist the witness in drafting and framing a statement. In doing so, the inspector should take care not to dictate the statement and should make an effort to assure that the statement is complete, concise, and to the point.
- (c) if the person interviewed refuses to give a signed statement, the inspector should prepare a statement based on information furnished by the witness. The witness should then be asked if he agrees to the substance. If he does agree, but continues to refuse to sign, the inspector should make a notation to that effect and date and sign it along with any witnesses.

(6) Normally, the alleged violator will be interviewed, even though he or she may have furnished written information. If the interview is not possible or necessary, indicate the reasons why it was not accomplished.

- (a) the alleged violators are interviewed primarily in order to give such persons an opportunity to tell their side of the story, and to help to establish all pertinent facts and circumstances.
- (b) the time for interviewing the alleged violator can be a critical decision. At times it is best to accumulate solid evidence with which to interview the alleged violator. At other times, an early interview will develop investigative leads. Good judgment dictates when the interview should be conducted.

(7) If the alleged violator or other witnesses are located in another country, it may be necessary to obtain assistance for the interviews. Make the request to the appropriate Civil Aviation Authority. Give full details of the assistance and information required.

8. PHOTOGRAPHS.

A camera loaded with fast, color film often is an inspector's best friend. When photographs are obtained, have the names and addresses of the photographers and the date and time the pictures were taken written on the back of the prints. Further, record the technical data of the film, shutter speeds, lens opening. List the custodian of the prints and information on the custody of the negative. When photographs are used in lieu of physical evidence, pertinent information as to the location and security of the physical evidence should be documented.

9. CHARTS, MAPS, AND DIAGRAMS.

Charts, maps, diagrams, and photographs should be obtained, as appropriate, to show physical features, such as airports, terrain, congestion, flight paths, obstructions, aircraft parts, etc. They may be useful when interviewing witnesses. They should be clearly labeled showing the source of the document, including the person who made any notations on the document (such as a depiction of a flight path on a chart). Copies of charts or an actual chart should be included in the report and the

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chart should be current as of the date of the violation. If a copy of the chart is used, the front page with the effective date of that chart should also be included. The inspector should make notes of the intended purpose of such exhibits for use when assembling the report.

10. DOCUMENTS AND RECORDS.

(1) Documents and records consist of Weather Service reports, load manifests, manual pages, communication logs, aircraft logs, etc. This type of evidence may be essential to prove the case or may provide backup or background information. Too often a witness statement is obtained without supporting documentary evidence. Thereafter, the witness may forget, flee, lie, or die, and a case may fail for lack of evidence. Do not overlook the importance of this type of evidence.

(a) Obtaining Documents and Records.

- (i) documentary evidence perhaps is the most common type of evidence used by the inspector. Its value frequently is overlooked not only as evidence but as an investigative tool to use for cross-reference, verification of oral statements, and interviews.
- (ii) the investigating inspector should take prompt action to review and obtain necessary records. Too often, vital records are lost, destroyed, or modified when prompt action is not taken. If it is apparent that the documents or records will not be provided voluntarily, the inspector should consult with legal counsel to arrange for legal subpoena (see Division 6). Documentary evidence should be specifically identified, accounted for, and protected from loss, damage, or alteration. If there is doubt about the relevance of particular records, they should be secured and preserved from the outset.
- (iii) where necessary, appropriate arrangements should be made for retention of records. Promptly notify the organization or person holding the records that specified records are to be held for inspection. If the records may not be retained as requested, make immediate arrangements, in coordination with legal counsel, for their preservation. Notice may be written or oral.
- (iv) the inspector should always indicate when, where, and from whom the document was obtained, and who from the DGCA obtained it. This may be done with a stamp on the reverse side such as in figure 11.
- (v) for non-DGCA persons or organizations, request only one copy of each document. The investigating DGCA office is responsible for reproducing additional copies needed.
- (vi) when documents such as company manuals, DGCA-approved airplane flight manuals, or manufacturer's service bulletins contain information necessary to a case, pertinent portions should be reproduced and made a part of the report.
- (vii) making copies of documents. When copies of documents are made, care should be taken to insure that all copies are legible and are accurate. Use a stamp substantially in accordance with that shown in figure 11 to document that you have reviewed each page of a copy of a document and compared it with the original. The stamp should be placed on copies of documents in a manner that does not obscure any of the information contained in the document, such as by placing it on the reverse side. Wherever possible, documents or copies thereof should be preserved in their original state. Wherever possible, avoid making marks on the face of documents. If marks or explanations are necessary for explanation or

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clarification, where possible, make them in an overlay, or include another copy of the document with marks on the copy.

- (viii) care should be exercised to assure that the documentary evidence obtained was current and applicable at the time of the incident in question. On the other hand, revisions to a manual, subsequent to an incident, may be important to some cases.

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- (i) Air Traffic Service Facilities are responsible for prompt notification to the DGCA of any incident or complaint involving a civil or public aircraft which may involve a violation of Lebanese Aviation Regulations. Such notification normally will be communicated by personal contact or telephone, during regular working hours, to the DGCA Chief of Flight Safety. After regular working hours, or on weekends or holidays, initial notification will be made through the assigned DGCA accident standby inspector.
- (ii) the purpose for this initial contact is to convey to the DGCA the essential facts as they are known at the time, and from which a decision may be made as to the need for further investigation. If the DGCA decides that further investigation is or most probably will be warranted, the DGCA representative should, in all cases, request that the Air Traffic Service facility retain the originals of all records related to the incident or complaint, such as recording tapes, flight progress strips, computer data, briefing logo, etc. This requirement is essential in view of the 15-day storage limit which is applied to the retaining of such records in the absence of a special request.
- (iii) thereafter, within 5 working days, the field office should advise the facility(ies) that it is either proceeding with the investigation, or the matter does not warrant further investigation and the hold on records and statements is released. If a decision is made to proceed, the DGCA should ask the Air Traffic Service facility to forward an Incident Report, DGCA OPS Form 100-9 (TBD), with Air Traffic Service records and other data, as evidence, in accordance with the following procedures:
 - A Air Traffic Control Tapes. The inspector should identify the pertinent portion of all tapes that are relevant to the incident under investigation and, with respect to each such tape, request the facility to (1) make a cassette recording of that portion of the tape, and (2) cut and preserve that portion of the original tape. When a violation report is prepared, the cassette recording should be included as an exhibit. The facility should not be required ordinarily to make a transcription of the pertinent portion of the tape until a transcript is needed by legal counsel for use in processing a legal enforcement action.
 - B Automated Radar Terminal System (ARTS) Data Recording and Analysis. The ARTS equipment has the capability to provide an altitude, speed, and heading readout. The use of the ARTS Data Reduction and Analysis (DR&A) information can provide valuable data for enforcement purposes if it is available.
 - ❖ this information may be used to corroborate other available evidence or to resolve conflicting evidence present in a given case.
 - ❖ when the inspector determines, pursuant to the above policy, that ARTS data is needed, the field office manager should request the required DR&A from the manager of the appropriate Air Traffic facility.
 - ❖ before a request is made, the facts, time, place, date of occurrence, and a valid need for this information should be provided by the requesting office.

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- C other Air Traffic Service records, such as flight plans and flight progress strips which the inspector determines to be pertinent to the investigation, should be requested from the appropriate facility.
- D when obtaining one of the above records from an Air Traffic facility, the inspector should also request written statements from facility personnel who have direct knowledge pertaining to the incident.
- (c) Weather Service Records. The inspector should carefully analyze the case to determine the extent weather is involved and obtain certified copies of sufficient data from the Weather Service Office involved to permit an intelligent weather analysis appropriate to the case. Legal counsel may request authenticated copies of the records for use in the legal proceeding.
- (d) Company Records. Requests or subpoenas for records of organizations, such as an air carrier, air taxi, manufacturer, or airport operator, should be made to the official custodian or a company officer. If an accident is involved and company records are needed, coordinate with the investigating board before the records are requested.
- (e) Aircraft Flight Recorder Tapes. Under Section (TBD by Ops Expert) of the Lebanese Aviation Regulations, the DGCA is authorized to obtain and use flight recorder data in any investigation conducted by DGCA since it involves a record required by the Lebanese Aviation Regulations to be maintained. The regulation further authorizes the use of flight recorder data in DGCA enforcement actions since the regulations that require flight recorders in aircraft do not specifically limit or prohibit such use. If the decision is made to use the flight recorder material in enforcement proceedings, a certified readout of the tape will be required. Requests for a readout should be made as follows:
 - (i) obtain a release for the tape from the owner or that owner's designated representative.
 - (ii) obtain the calibration tape.
 - (iii) pack the flight recorder and calibration tapes so as to prevent damage, and ship to the DGCA, Lebanon.
 - (iv) send a letter of transmittal with the following information (Note: The DGCA Representative should be identified in the forwarding documentation):
 - A. owner's full name and address.
 - B. make and model of aircraft involved.
 - C. aircraft registration number.
 - D. place and date of occurrence.
 - E. a brief description of the occurrence or incident and the reasons for the readout request.
 - F. the name of the DGCA person or office to whom the tape should be returned.
 - (v) ship the package by certified mail, return receipt requested.
 - (vi) during the readout, have a DGCA representative present. The representative will observe the readout and be able to testify as to its authenticity.
- (f) Cockpit Voice Recorder. The use of a cockpit voice recorder record as evidence in any civil penalty or certificate action is prohibited by the Lebanese Aviation Regulations (TBD by Ops Expert).
- (g) Other Government Records. If a National or local law enforcement agency has investigated the incident, it may have valuable information. Such records often

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include the names of witnesses who should be interviewed by the investigating inspector. If there is any type of court proceeding, the certified copy of the court order should be obtained along with any other record of court proceedings as necessary. When violation of a foreign law or regulation is being reported, a copy of such law or regulation, in effect at the time of the violation, should be included in the investigative report.

- (h) Medical Records. Medical records by a physician or hospital regarding treatment or tests of a person involved usually are privileged and generally cannot be obtained without the consent of the individual. If consent is not given, a subpoena may be obtained pursuant to Article(s) (TBD) of the Lebanese Civil Aviation Safety Act. Where required, every effort should be made to obtain from the person involved a written consent in order to obtain such records. The person involved should be presented with an DGCA OPS Form 100-10 (TBD), "Authorization for the Release of Medical Information to the DGCA," for this purpose.

11. PHYSICAL EVIDENCE.

Physical evidence consists of objects or items, such as a cracked propeller, defective spar, or worn engine parts or cables, pertinent to the violation. Care must be taken so that the handling of physical evidence does not result in damage, loss, or alteration. The inspector must be prepared to testify to this fact. A chain of custody should be established. The purpose is to show who has had custody of it and that the evidence has not been changed or altered. The best procedure is to lock up the evidence in a safe place until time of hearing. If this is not possible, the inspector should know and record the name(s) of any person who has taken possession of the piece of evidence. In any event, the report should specify the location of physical evidence.

12. SUBMISSION OF ADDITIONAL EVIDENCE/MATERIAL.

The responsibility to report the facts does not end with the submission of the Enforcement Investigative Report. To have a fair enforcement program, all relevant material must be considered, no matter how late it may come to our attention. Therefore, any data which subsequently comes to the inspector's attention should be immediately forwarded, along with the inspector's evaluation and recommendations concerning the material. Additional investigation may also be requested by legal counsel. The distribution for the supplemental material will be the same as for the initial report.

13. COORDINATING THE INVESTIGATION.

(1) Other DGCA offices having investigatory responsibility. Investigations under the jurisdiction of the DGCA are the responsibility of the offices within the DGCA, for appropriate investigations of alleged violations. Therefore, when it appears that violations of the regulations within the jurisdiction of other offices may be involved, it is essential that appropriate coordination be maintained. In such cases, investigation and enforcement should be pursued against all regulations believed violated, in a coordinated effort.

(2) Other government investigatory agencies. Some matters within the investigatory jurisdiction of DGCA may also involve violations of statutes or regulations that are within the investigatory jurisdiction of another government agency. In such a case, the inspector shall proceed as follows:

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

- (a) immediately report the matter to the DGCA. However, when the situation requires immediate action, the inspector may contact the appropriate governmental agency directly.
- (b) request that agency to furnish any information it has which may be pertinent to the DGCA investigation.

14. VOLUNTARY SURRENDER OF CERTIFICATE.

At any time after the filing of a violation report, a certificate holder involved may surrender that certificate to an inspector. Where legal action may be involved, the legal counsel should be consulted regarding terms of the surrender. Procedures for voluntary surrender are contained in **(TBD)**.

FIGURE 2.

**SAMPLE NOTICE OF AIRCRAFT CONDITION
UNDER ARTICLE(S) (TBD) OF THE LEB ACT**

November 26, 2000

Mr. Michel Saad
Senior Vice President, Engineering and Maintenance
XYZ Airlines
P. O. Box 1234
Beirut Lebanon

Dear Mr. Saad:

On November 25, XYZ Airlines operated and continued to operate A-320, ODXXX, on a series of revenue flights when that aircraft did not meet applicable airworthiness requirements. Specifically, this aircraft's main left forward cabin door (emergency exit) did not function normally because of mechanical defects. In the event of an emergency it was apparent to the Director General of Civil Aviation that a flight attendant could not readily operate this door because of the door defect.

Instead of using methods, techniques, and practices acceptable to the Minister to repair the door, XYZ Airlines elected to defer the repair and placed a certificated mechanic aboard this aircraft. His duties were to operate the door on a series of flights on this date.

Under the provisions of Article(s) (TBD) of the Lebanese Civil Aviation Safety Act, as amended, XYZ Airlines was verbally notified on November 26, 1988, at 0040 A.M., through CEO Gerard Karam, that XYZ Airlines A-320, ODXXX, was not in condition for safe operation and should not be used in air transportation.

This letter constitutes written confirmation of that verbal notification, which will remain in effect for a period of five (5) days commencing at the time of verbal notification. If the condition cited above is corrected prior to the five (5) day interval and inspected and found satisfactory by a DGCA Inspector, the DGCA will advise you in writing that the aircraft may then be operated in air transportation.

Notify the DGCA when corrective action has been completed.

Sincerely,

Habib Hachem
Aviation Safety Inspector

**FIGURE 3.
SAMPLE LETTER OF INVESTIGATION / FLIGHT OPERATIONS**

July 5, 2000

File Number: EIR123
Mr. Mohammad Helou
P.O. Box 453-564
Beirut Lebanon

Dear Mr. Helou:

Personnel of this office are investigating an incident occurring on July 4, 2000, which involved the operation of Cessna aircraft N57785 in the vicinity of Wadi Charou at approximately 3:15 p.m. The aircraft was observed and identified as Cessna N57785 diving on picnickers and bathers from 3:15 to 3:35 p.m. We were informed that Cessna N57785, piloted by you, landed at the airport at 3:45 p.m. Operation of this type is contrary to the Lebanese Aviation Regulations. This letter is to inform you that this matter is under investigation by the Directorate General of Civil Aviation. We would appreciate receiving any evidence or statements you might care to make regarding this matter within 10 days of receipt of this letter. Any discussion or written statements furnished by you will be given consideration in our investigation. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

JOHN L. DOE
Aviation Safety Inspector

FIGURE 4.
SAMPLE LETTER OF INVESTIGATION / OPERATIONS

June 5, 2000
File Number: EIR005
Captain Jarard Karam
P.O. Box 234-876
Beirut, Lebanon

Dear Captain Karam:

This letter is in reference to MXA Airlines' Flight 5 of June 2, 2000, which touched down approximately 400 feet short of Runway 21 when landing at Beirut International Airport. During a preflight inspection of the aircraft involved (Airbus A-321 ODXXX), conducted prior to a turnaround departure of Flight 5, it was found that the landing gear had been damaged and the structural integrity of the airframe affected. Further investigation disclosed that the airport boundary fence located on the approach end of Runway 21 had been damaged. A section of an aircraft landing gear retract strut was found in this area that appears to be the one missing from the subject aircraft.

A check of the aircraft maintenance log failed to disclose an entry pertaining to this mechanical irregularity. The landing short of the runway with subsequent damage to the boundary fence and the aircraft may also have endangered the lives of the other occupants of the aircraft. This letter is to inform you that this incident is under investigation by the Directorate General of Civil Aviation. Since you were the pilot in command, we wish to offer you an opportunity to discuss it personally and submit a written statement. If you desire to do either, this should be accomplished within 10 days following receipt of this letter. Your statement should contain all pertinent facts and mitigating circumstances which you feel may have a bearing on the incident. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

Harem Cadu
Aviation Safety Inspector

FIGURE 5.
SAMPLE LETTER OF INVESTIGATION / MAINTENANCE

July 1, 2000

File Number: EIR125

ABC Airlines, Incorporated
Beirut International Airport
P.O. Box 112-987

Attention: Mr. Abdula Hasan
Vice President, Engineering and Maintenance

Dear Mr. Hasan:

During a recent spot check of your maintenance facilities, irregularities were noted concerning maintenance procedures and records. Specifically, a record inspection conducted on June 21, 2000, revealed that ABC Airlines' B-727 aircraft, ODXXX, was operated beyond a Number 2 check (165-hour periodic inspection) by zero hours and 41 minutes. It was also observed that ABC Airlines' L-1049H aircraft, ODXX1, also exceeded a Number 2 check by 11 hours and 3 minutes. We invite your attention to ABC Airlines' Maintenance Manual, Part III, pages 5 through 7, and the Lebanese Aviation Regulations. This is to inform you that this matter is under investigation by the Directorate General of Civil Aviation. We wish to offer you an opportunity to discuss the incident personally and submit a written statement. If you desire to do either, this should be accomplished within 10 days following receipt of this letter. Your statement should contain all pertinent facts and any mitigating circumstances which you believe may have a bearing on the incident. If we do not hear from you within the specified time, our report will be processed without the benefit of your statement.

Sincerely,

J.V. Lassam
Aviation Safety Inspector

FIGURE 6.
SAMPLE LETTER OF INVESTIGATION / AIRPORT SECURITY

TBD

ORDER

REPUBLIC OF LEBANON
MINISTRY OF PUBLIC WORKS AND TRANSPORT
DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

100- 7

FIGURE 7.
SAMPLE LETTER OF INVESTIGATION / AIRPORT OPERATIONS

TBD

ORDER

REPUBLIC OF LEBANON
MINISTRY OF PUBLIC WORKS AND TRANSPORT
DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

100- 7

FIGURE 8.
SAMPLE LETTER OF INVESTIGATION
MANUFACTURING
Manufacturer Quality Assurance System Breakdown

TBD

FIGURE 9.
SAMPLE LETTER OF NOTIFICATION / CLOSING OF INVESTIGATION

August 15, 2000

File Number: EIR667

Hassan Abunda
P.O. Box 543-12
Beirut Lebanon

Dear Mr. Abunda:

On July 5, 2000, you were advised that the Directorate General of Civil Aviation was investigating an incident which reportedly occurred on July 4, 2000, in the vicinity of Wadi Charou, and involved your operation of Cessna N57785. This letter is to inform you that our investigation has not established a violation of the Lebanese Aviation Regulations, and you may consider the matter closed.

Sincerely,

Abdula DOE
Aviation Safety Inspector

FIGURE 11.
CERTIFICATE OF AUTHENTICITY

CERTIFICATE

I _____
_____ ,

certify that this is a true and complete copy or
duplicate of: _____

located at: _____

Date: _____

Signature: _____

Office: _____

DIVISION V.**SPECIAL INVESTIGATIVE PROCEDURES.****1. PURPOSE.**

While the guidance provided in Divisions 4 and 8 generally apply to the investigating and reporting of all violations, certain enforcement cases may require special handling. This Division provides guidance for handling some special cases.

2. VIOLATIONS BY MEMBERS OF THE ARMED FORCES.

In accordance with the Lebanese Civil Aviation Safety Act, armed forces airmen and aircraft are not subject to the provisions of the Lebanese Civil Aviation Safety Act or the Lebanese Aviation Regulations.

3. VIOLATIONS OF FOREIGN AVIATION REGULATIONS.**(1) General.**

- (a) violations of foreign aviation regulations by DGCA certificate holders, Lebanese citizens, or Lebanese companies, may come to the attention of the DGCA in the form of a complaint addressed to the Directorate General of Civil Aviation (DGCA), Lebanon, or by other means, such as in letters or telegrams from foreign aviation authorities addressed to DGCA. In all cases, the DGCA should investigate, report, and process the violation.

(2) Investigation.

- (a) regardless of the manner in which the DGCA learns of a violation of foreign regulations by DGCA certificate holders, Lebanese citizens or Lebanese companies, the DGCA is responsible for the investigation and ultimately reporting back to the foreign aviation authority that originated the complaint through, if appropriate, the Lebanese Foreign Service Post. In instances of particular significance, DGCA may issue instructions for special handling.
- (b) any DGCA investigation in a foreign country shall be conducted with the concurrence of the appropriate foreign aviation authorities and coordinated with the Lebanese Foreign Service Post in that country.
- (c) when additional vital information is needed from the foreign authorities submitting the complaint, such as copies of appropriate foreign regulations or arrangements necessary to pursue the investigation within the reporting country, the investigating office should direct the request to the foreign aviation authorities that submitted the original complaint. Information copies of such communications should be provided to the appropriate Lebanese Foreign Service Post.

4. VIOLATIONS OF LEBANESE REGULATIONS BY FOREIGN PERSONS OR COMPANIES.

These violations are investigated and reported in accordance with Divisions 4 and 8. Since an enforcement file may be referred to a foreign government, it is very important that a thorough, comprehensive, factual investigation be conducted. The EIR must be accurate and conclusively prove the violations. When it is necessary to obtain investigatory evidence through a foreign government,

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

the investigating office should obtain the needed evidence through the appropriate Lebanese Foreign Service Post. The investigating office will forward the completed EIR to the

5. VIOLATIONS BY DGCA EMPLOYEES.

(1) When DGCA employees are involved in violations of the Lebanese Aviation Regulations, they are subject to DGCA enforcement action in the same manner as violations involving industry or private persons.

(2) When the violation is committed by an employee, the investigation and report will be conducted and processed by an inspector appointed by the Minister. Any required legal enforcement action will be processed as directed by the Minister.

6. VIOLATIONS OF THE HAZARDOUS MATERIALS REGULATIONS.

Investigation and legal action will be done by the Lebanese Military.

**7. VIOLATIONS BY INDIVIDUALS OF LARs PART VI, SUBPART 2, SECTION (TBD),
PROHIBITING INTERFERENCE WITH CREWMEMBERS.**

Incidents involving assault, intimidation, or threats against flight crewmembers or flight attendants may be criminal violations of Article 102 of the Lebanese Civil Aviation Safety Act as well as violations of Section (TBD by Ops Expert) of the LARs. These incidents constitute an area of concern to the DGCA. Interference with crewmembers may seriously jeopardize aviation safety, preventing flight attendants from performing their functions, and often requiring flight crewmembers to leave their cockpit duty stations. An investigation shall be initiated in each instance, and coordinated in accordance with the procedures in Division 6.

DIVISION VI.

FORMAL FACT-FINDING INVESTIGATIONS

1. PURPOSE.

The purpose of this Division is to provide guidance on the use of formal fact-finding investigations which may be instituted to assist the DGCA in finding facts material to the exercise of its functions.

2. AUTHORITY.

Under Article(s) (TBD) Lebanese Civil Aviation Safety Act, as amended, the DGCA may conduct formal fact-finding investigations. Such investigations are conducted pursuant to an order of investigation issued by the Chief of Flight Safety.

3. USE OF THE FORMAL FACT-FINDING INVESTIGATION.

The fact-finding investigation involves the use of legal process as an investigative aid. For example, the DGCA may order an investigatory hearing, utilizing the Minister's authority under Article(s) (TBD) of the Lebanese Civil Aviation Safety Act, to obtain evidence of possible violations. The fact-finding investigation procedure makes it possible to compel testimony and to obtain documents which would not be given or made available voluntarily. Also, formal fact-finding procedures can facilitate the gathering or preservation of evidence and the coordinated conduct of an interregional investigation, such as in a case which may result in revocation of certificates.

4. REQUESTS FOR FORMAL FACT-FINDING INVESTIGATIONS.

When planning an investigation, or at any time during an investigation, the inspector may find that the formal fact-finding procedure is needed to conduct a full and complete investigation. For example, an inspector may be unable to obtain a statement from a key witness, or obtain essential records for DGCA inspection. In such situations, the Chief of Flight Safety should issue of an order of investigation.

5. INITIATING THE FORMAL FACT-FINDING INVESTIGATION.

Within the DGCA, the Minister's powers to issue subpoenas, administer oaths, examine witnesses, receive evidence, require the production of records, take depositions, and enforce compliance with these processes in the conduct of formal fact-finding investigations have been delegated to the Chief of Flight Safety. When it is determined that a formal fact-finding investigation is necessary, the Chief of Flight Safety will issue an order of investigation, (see figure 12).

6. CONDUCT OF THE FORMAL FACT-FINDING INVESTIGATION.

The presiding officer, as designated by the order of investigation, will conduct the investigation. He may designate additional persons to assist in the investigation. A written report of the investigation will be prepared by the presiding officer. The purpose of the formal fact-finding investigation is to develop facts. It is not adjudicatory in nature. The investigating office, on the basis of evidence developed in the formal fact-finding investigation and any other information in its possession, shall

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

recommend appropriate enforcement action. In the event that the presiding officer determines that evidence compiled during the formal fact-finding investigation supports a finding that air transportation or air commerce and the public interest warrant initiation of emergency action, the Emergency Order and the enforcement investigative report will be substituted in lieu of the written report.

7. USE OF ADMINISTRATIVE SUBPOENAS.

In an investigation circumstances may arise under which the use of an Administrative Subpoena may be of assistance. A subpoena requires the person on whom it is served to provide either evidence or testimony on matters that are under investigation. Generally subpoenas are not required in an investigation, but where an attempt has been made to acquire evidence or information, and the holder of the information has refused to produce it, a subpoena may be used to compel production of the information. Subpoenas may be issued by the Chief of Flight Safety. While most administrative subpoenas are issued to obtain records, documents or other physical evidence, they may also be used to obtain testimony.

- (a) a formal Order of Investigation is not a prerequisite to issuance of a subpoena. Subpoenas may be enforced under Article(s) (TBD) of the Lebanese Civil Aviation Safety Act.
- (b) the following is general guidance for the use of subpoenas. It is not intended to restrict the use of subpoenas under other valid circumstances.
 - (i) subpoenas should be used for valid investigative purposes to provide information or evidence that reasonably relates to the matter under investigation.
 - (ii) subpoenas may be served on the subject of an investigation or on other individuals who have information but are not the subject of the investigation.
 - (iii) other investigative means generally should be used prior to using a subpoena, unless there is reason to believe that the other means would not be effective. Normally a request should be made for items or information before requesting and serving a subpoena. If, however, there is reason to believe that evidence will be destroyed if a simple request for the evidence is made a subpoena may be issued and served as the first request for information.
 - (iv) many individuals or corporations, while willing to provide information, are reluctant to do so without a subpoena to protect themselves from action by the subject of the investigations. Under these circumstances they may be perfectly willing to produce the information when a subpoena has been issued.
- (c) in order to obtain a subpoena a request must be made to the Chief of Flight Safety. The inspector will provide the following information to Chief of Flight Safety so that a determination can be made on the issuance of a subpoena:
 - (i) why is a subpoena needed? This should include an explanation of why normal investigative techniques have not produced, or may not produce, the evidence sought.
 - (ii) what is requested? If documents or evidence are requested, there should be an accurate description of the documents to be subpoenaed. The items requested should be reasonable in both their scope and duration. It should be recognized that response to

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

a subpoena will be a burden on the person on whom it is served. Therefore, while all of the information or documents that needed should be requested, the subpoena should cover no more than it is reasonably expected may be needed to complete the investigation.

- (iii) where are the documents or evidence located?
 - (iv) who is the custodian of the documents or evidence?
 - (v) where do the documents or evidence need to be produced?
Consideration should be given as to whether the documents need to be produced at an DGCA office or at the place of business of their custodian, or whether they may be produced by mail.
 - (vi) on what date should the items be produced? Under normal circumstances a reasonable time should be provided to allow for the documents to be produced. If there are reasons to believe that documents, records or evidence may be destroyed, consideration should be given to whether the items should be produced immediately. Under appropriate circumstances documents may be produced by mail.
- (d) once a subpoena has been issued, generally it is served personally upon the individual or corporation. If the subpoena contains a "return of service" it is important that it be fully completed indicating to whom, when, where, and how service of the subpoena was made. If there is no return of service then a memorandum should be prepared specifically listing all of the details of how the document was served.
 - (e) it is important that the investigator closely coordinate with counsel on the use of subpoenas and seek advice as to whether subpoenas will be of help and how they are to be used. Subpoenas can be a very effective tool in the investigatory process when other investigatory means have proven unsuccessful.
 - (f) if the information or evidence sought is something that an airman or operator is required by statute or regulation to maintain and present to the DGCA, a failure to produce such information to the DGCA may be grounds for emergency suspension or revocation of a certificate, rather than using a subpoena to require production of the item or information.

**FIGURE 12.
SAMPLE ORDER OF INVESTIGATION**

_____)
 In the Matter of the Investigation)
 of ABC Airways, Inc., Holder of LARs)
 Part VII Air Operator Certificate No.)
 001 to determine the compliance of it)
 and its personnel with applicable)
 portions of the Lebanese Civil Aviation)
 Safety Act, as amended, and the)
 Lebanese Aviation Regulations)
 _____)

ORDER OF INVESTIGATION

Information has been received by the Director General of Civil Aviation indicating that ABC Airways, Inc., and certain of its personnel may have violated certain portions of the Lebanese Civil Aviation Safety Act, as amended, and the Lebanese Aviation Regulations (LARs).

In order to determine to what extent, if any, ABC Airways, Inc., and its personnel have violated the Act, Section 602.11 of the LARs, and Parts VI (Subpart 2) and Part VII (Subpart 5) of the LARs, and to determine further if safety in air commerce or air transportation is jeopardized, the Minister of Transportation, acting by and through his Directorate General of Civil Aviation, hereby orders that:

1. Pursuant to the authority in Article(s) (TBD) of the Lebanese Civil Aviation Safety Act, as amended, an investigation be conducted into the possible violations of the Lebanese Civil Aviation Safety Act, as amended, and the Lebanese Aviation Regulations (LARs) by ABC Airways, Inc., and its present and past personnel.
2. Mr. John E. Doe hereby is designated to serve as presiding officer and is delegated the authority to conduct said investigation. He may be assisted by persons he designates, and he shall have the authority pursuant to Article(s) (TBD) of the Lebanese Civil Aviation Safety Act., as amended, to take testimony, issue subpoenas, take depositions, administer oaths, examine witnesses, and such other authority as is contained in Article(s) (TBD) of the Lebanese Civil Aviation Safety Act., as amended.
3. At any hearing convened by Mr. Doe pursuant to this Order, he shall have full authority as presiding officer and he may be assisted by such persons as he designates. A verbatim record of any hearings or depositions will be kept, and questioning of all witnesses at such hearings or depositions shall be by Mr. Doe or his designee. Documents produced at such hearings or depositions pursuant to a subpoena issued by Mr. Doe shall be made a part of the record of such hearings or depositions only when so ordered by Mr. Doe.

Dated: August 18, 2000

 RICHARD B. ROE
 Chief of Flight Safety
 Directorate General of Civil Aviation

DIVISION VII.**RE-EXAMINATION AND RE-INSPECTION UNDER ARTICLE(S) (TBD) OF THE
LEBANESE CIVIL AVIATION SAFETY ACT****1. AUTHORITY.**

Under Article(s) (TBD) of the Lebanese Civil Aviation Safety Act, as amended, the Minister is authorized to reinspect any aircraft, aircraft engine, propeller, appliance, or air navigation facility, and to reexamine any airman. Reexamination or reinspection does not preclude the taking of punitive enforcement action when appropriate. When any certificate holder fails to comply with a request for reinspection or reexamination, Article(s) (TBD) provides legal procedures to require that the certificate holder be reinspected or reexamined. The Article(s) (TBD) reexamination or reinspection authority should be used when facts reasonably indicate that a certificate holder may not be qualified to hold a certificate. If the facts demonstrate that the certificate holder is not qualified, then reexamination is not appropriate and certificate action shall be taken to revoke the certificate based on a demonstrated lack of qualification.

2. PROCEDURES.

When an inspector, a Flight Surgeon, have reason to believe, either through reliable reports, personal knowledge, or on the basis of evidence obtained through investigation, that a certificate holder may not be qualified to exercise the privileges of a particular certificate or rating, a reexamination or reinspection may be required.

- (a) the investigating inspector, or office of medical responsibility, shall notify the certificate holder by certified mail that a reinspection or reexamination is necessary, (see figures 13 and 14). Generally, the certificate holder should be given a reasonable period of time in which to accomplish the reexamination or reinspection, but in some cases immediate action to suspend the certificate in accordance with Section e, below, may be appropriate.
- (b) the letter should specify the time, place, and subject of the reinspection or reexamination, giving reasonable consideration to the convenience of the certificate holder.
- (c) the inspector shall be careful to point out exactly the rating(s) on which the inspector wishes to conduct the reinspection or reexamination. The office of medical responsibility shall identify the specific information or history needed to determine whether the holder of an airman medical certificate meets appropriate medical standards, and class of medical certification which the DGCA wishes to reexamine.
- (d) where appropriate, the letter should state that enforcement action may be taken in addition to the reexamination.
- (e) if the certificate holder, within a reasonable time, fails to submit to reexamination or to comply with a request for reinspection, the following procedures should be followed:
 - (i) the DGCA, or office of medical responsibility, should prepare an EIR recommending emergency suspension of the certificate until such time as the holder submits to and passes a reinspection or reexamination. If the situation warrants, the Chief of Flight Safety should be notified immediately and requested to begin action prior to receipt of the full EIR.

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

- (ii) the EIR should contain the following:
 - A. the facts and supporting evidence that gave rise to the need for reexamination. For example, if an accident was the event that gave rise to the need for reexamination, the details of the accident should be described, with supporting evidence.
 - B. there should be an analysis explaining why the facts indicate that the certificate holder may not be qualified. For example, the file should specifically explain what it was about the accident that caused the inspector to question the competency of the airman.
 - C. there should be documentation in the file to prove that the certificate holder was requested to submit to a reexamination or reinspection and to prove that the certificate holder has not submitted to the reexamination or reinspection, unless it is determined that due to special circumstances the certificate should be suspended immediately without first requesting submission to the reinspection or
 - D. reexamination.
- (iii) in cases where there may be enforcement action taken in addition to reexamination, the inspector should be careful not to mislead the airmen or operator into believing that the reexamination is the only action being taken, (see figure 13).
- (iv) the Chief of Flight Safety shall initiate certificate action when the evidence submitted is sufficient to establish that the certificate holder may not be qualified to hold the certificate or that safety in air commerce or air transportation and the public interest requires the suspension of the certificate pending satisfactory completion of reexamination or reinspection. Emergency certificate action generally is appropriate. There may, however, be circumstances where, in the discretion of counsel, it is more appropriate to proceed by notice rather than by emergency action.
- (v) the action taken shall either order or propose the suspension of the certificate until such time as the holder submits to reinspection or reexamination and satisfactorily establishes qualifications to continue to hold the certificate and to exercise the privileges of such certificate.
- (vi) if the certificate holder appeals the Order suspending his certificate pending reexamination and such appeal is pending before the Tribunal, reexamination should not be given to the airman until the airman withdraws his appeal.
- (vii) if the certificate holder satisfactorily establishes qualifications to continue to hold and use the certificate, the DGCA shall issue a letter advising the certificate holder of that finding, and shall take appropriate steps to terminate the order, release the certificate stop order.
- (viii) if a certificate holder whose certificate is suspended under this Section fails to submit to a reexamination or reinspection within a reasonable period of time, the certificate or rating should be revoked. The certificate should not be under suspension indefinitely pending the certificate holder submitting to a reinspection or reexamination. In this case, because the certificate already is suspended, emergency action generally will not be necessary.

DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

- (f) if the certificate holder has submitted to a reinspection or reexamination and has not established qualifications, the following procedures should be followed:
- (i) the investigating office or office of medical responsibility should prepare an EIR, recommending revocation of the certificate or rating. This generally should be on an emergency basis, unless and order suspending the certificate or rating is in effect.
 - (ii) the EIR should be given a new report number. Any companion report number, which was assigned to an earlier EIR in connection with certificate suspension, should be referenced. If revocation action is taken against only part of the certificate, such as an airman rating, the DGCA or officer of medical responsibility should issue the necessary temporary certificate or new certificate with the remaining privileges. Evidence of the failure to demonstrate qualification should be included as an item of proof. For airman medical cases only, the EIR prepared by the office of medical responsibility need only consist of Section A (DGCA OPS Form 100-7 (TBD)) and supporting documentation as shown in Section (2)(e)(ii).
 - (iii) in some cases, it may be appropriate to suspend the certificate for a reasonable time pending proof of requalification. However, a certificate holder should not be permitted indefinitely to hold a certificate in order to have additional opportunities to prove qualification. Generally, if the certificate holder has twice submitted to a reinspection or reexamination, and has twice failed, the certificate should be revoked.

FIGURE 13.

**SAMPLE LETTER REQUESTING REEXAMINATION UNDER ARTICLE(S) (TBD) OF
THE LEBANESE CIVIL AVIATION SAFETY ACT
CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Dear Mr. _____
Investigation of the accident/incident which occurred at _____ on
_____, gives reason to believe that your competence as a certificated airman
is in question and that reexamination of your qualification to be the holder of _____
_____ is necessary in the interest of safety. Therefore, pursuant to the Authority
contained in Article(s) (TBD) of the Lebanese Civil Aviation Safety Act, as amended, you are
requested to call or appear at this office no later than, _____, to make an appointment for a
reexamination. The reexamination will consist of _____ and include the knowledge and
skill necessary to be the holder of _____ with emphasis on _____

If you do not accept the opportunity for reexamination by the date set forth above, it will be necessary
for us to start proceeding in suspend your airman certificate until such time as you demonstrate your
competence to exercise is privileges. If, for reasons beyond your control, you are unable to be
reexamined at this time, please contact the undersigned prior to _____
in Order that a determination can be made whether a time extension may be granted.

Please note that the incident which occurred on _____ is still under investigation to
determine whether other enforcement action is appropriate. If additional enforcement action is to be
taken you will be advised in a separate letter. We will be pleased to discuss this matter with you and
provide any further information which may assist you. Our office is open from _____ to
_____, and our telephone number is _____.

Your cooperation in this matter will be appreciated.

Sincerely,

FIGURE 14.
SAMPLE LETTER REQUESTING ADDITIONAL MEDICAL INFORMATION

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear _____

You hold airman medical certificate class, issued Information provided this office indicates that you may not meet the requirements to hold your medical certificate. Accordingly, we are reexamining whether you meet the medical standards prescribed in Part IV of the Lebanese Aviation Regulations (LARs).

This office has been advised that you have a history of , which could render you ineligible for continued airman medical certification.

Under the authority of Article(s) (TBD) of the Lebanese Civil Aviation Safety Act and Section (TBD), the LARs, the Director General of Civil Aviation is hereby reexamining your qualifications in Order to determine your eligibility for continued airman medical certification. It is necessary that within 30 days you provide this office with information pertaining to your medical history, to include dates of treatment, findings, symptoms, diagnosis, prognosis, and treatment (both past and present). We will require copies of all pertinent hospital records to include admission and discharge summaries and the results of all studies done. In addition to the above, we will require that within 10 days you provide this office with the following:

- a. A list of all physicians or other health care professionals you have consulted within the past 5 years to include addresses and reasons for consultations.
- b. A list of all periods of hospitalization to include names and addresses of hospitals and causes for admissions.
- c. An accurate list of all traffic and other convictions you have had, to include dates, locations and dispositions.
- d. Please execute and promptly return to this office the enclosed authorization for release of information (DGCA Form TBD).

The information should be structured to the specific circumstances.

Pending determination of your eligibility for continued airman medical certification, you may wish to voluntarily surrender to this office any current airman medical certification in your possession. Your failure to provide the requested data within the time specified will necessitate our referral of your case to our DGCA legal counsel.

ORDER

**REPUBLIC OF LEBANON
MINISTRY OF PUBLIC WORKS AND TRANSPORT**

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DGCA COMPLIANCE AND ENFORCEMENT PROCEDURES

You are reminded that your operation of an aircraft as pilot in command, or in any other capacity as a required pilot flight crewmember, while having a known medical deficiency, or after experiencing any adverse change in medical condition that would make you unable to meet the requirements for your medical certificate, would be a violation of Section (TBD) of the LARs.

Sincerely,

Enclosures

DIVISION VIII.

PREPARATION OF ENFORCEMENT INVESTIGATIVE REPORTS

1. GENERAL.

(1) The Enforcement Investigative Report (EIR) is the means for documenting, assembling, organizing, and presenting all evidence and other pertinent information obtained during an investigation. Since it is the document from which determinations of violations and sanctions are made, the report must be well-prepared, factual, and provide the proof required to substantiate the enforcement actions contemplated.

(2) If at any time during the investigation the inspector determines that no violation occurred, the inspector should terminate the investigation, and complete the applicable section of the EIR. If a letter of investigation was issued, all recipients should be notified that the matter has been closed.

(3) If it is determined after evaluation of all the evidence obtained in the investigation that a violation did occur, either administrative action or legal enforcement action, as appropriate, should be recommended.

(4) Extreme caution should be exercised in order to ensure that neither the alleged violator nor any other unauthorized person, is informed of the inspector's recommendations.

2. REPORT PREPARATION.

All enforcement investigations shall be reported in accordance with instructions in this Division.

(1) *Administrative Action or No Action Cases.* When administrative enforcement action is taken, only Section A of DGCA OPS Form 100-7 (TBD) (Section A of the EIR) need be prepared in accordance with the guidelines obtained in Section 4, (see figure 1 (TBD)). For "no action" cases, only Sections A and B of the EIR need be prepared. See Sections 4 and 5. The DGCA may elect to prepare or have prepared a complete EIR in cases involving complex or sensitive investigations notwithstanding the fact that administrative enforcement action is recommended.

(2) *Legal Enforcement Action.* For legal enforcement action, the entire EIR (Sections A, B, C, and D) should be completed. DGCA OPS Form 100-7 (TBD) (Section A of the EIR) should be prepared in accordance with the guidelines in Section 4.

(3) *Criminal Enforcement Action.* For criminal enforcement actions, the entire EIR (Section A, B, C, and D) should be completed and transmitted to the appropriate DGCA Counsel for review and referral to the Department of Justice.

3. REPORT ASSEMBLY.

1. The Enforcement Investigative Report consists of four main sections:

- (a) Section A, DGCA Form (TBD).
- (b) Section B, Summary of Facts.
- (c) Section C, Items of Proof.
- (d) Section D, Facts and Analysis.

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(2) Section dividers with preprinted tabs A through D may be used to separate the four main sections of the report. In addition, dividers may be used to separate the Item of Proof exhibits in Section C. While use of dividers is not mandatory, it is strongly recommended.

4. SECTION A - PREPARATION OF DGCA OPS FORM 100-7 (TBD).

(1) Information blocks on DGCA OPS Form 100-7 (TBD) should be completed in accordance with the guidelines in Section below. The report number, which identifies a specific EIR, should be entered as a 5-digit code consisting of the year, and, and a sequential number (example: 00001- for year 2000 and EIR 001). Related enforcement investigative reports should be entered, in the same code form, for any other EIR's associated with the same incident.

(2) Information required on DGCA OPS Form 100-7 (TBD) should be entered into DGCA Documentation Center Tracking System.

(3) Instructions for completing DGCA OPS Form 100-7 (TBD).

- (a) Name. Enter the name of the alleged violator. The entry should show an individual by last, first and middle name. (e.g., Smith, Ralph Duane). The name of a legal entity should be shown in full (e.g., All American Airlines, Inc.; Ralph Duane Smith d/b/a All American Airlines; Tri-County Airport Authority; etc.). A legal entity's name should be the standard in use for the organization, such as the air carrier designator, the name in the airport table, or other standard source.
- (b) Address/Telephone Number. Enter the current mailing address, including ZIP code, of the individual or legal entity. When practicable, the investigating inspector should verify this data. If the mailing address is a post office box, a street address to which over-night deliveries may be made should be included in the remarks section. The telephone number will be entered as appropriate.
- (c) Date of Birth. Enter, in numerals, the date of birth of the individual alleged violator, in a six digit year-month-day (DD-MM-YY) format (e.g., 04-12-41; 25-05-54). Leave blank if not appropriate.
- (d) Sex. Enter male (M) or female (F).
- (e) DGCA Certificate Number. Enter the number of the DGCA certificate held by the alleged violator, if related to the incident under investigation or the regulation believed violated. Use the word "NONE" if no certificate is held.
- (f) DGCA Certificate Type. Enter the type of certificate referenced in Item (e) (e.g., commercial pilot; air carrier; airport operator; etc.). Leave blank if not appropriate.
- (g) Aviation Employer. Enter the alleged violator's employer if the alleged violation is related to that employment, and the employment involves a segment of aviation or aviation-related activity. In cases involving

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passenger violations, or passenger violations, the name of the responsible air carrier(s) should be entered.

- (h) Make. Enter the name or trade name of the manufacturer when an aircraft, aircraft engine, propeller, or aircraft component or appliance is involved in or related to the alleged violation. Blocks (8) through (12) may be left blank if not appropriate.
- (i) Model. Enter the model of the aircraft, aircraft engine, propeller, appliance, or aircraft component, as appropriate.
- (j) Identification No. For an aircraft, enter the identification number. For an aircraft engine, propeller, appliance, or aircraft component, enter the serial number when available.
- (k) Owner. Enter the name of the owner of the aircraft or the aeronautical product involved in the alleged violation.
- (l) Owner Address. Enter the current mailing address of the owner listed in Item (k).
- (m) Date Occurred. Enter, in numerals, the date(s), on which the alleged violation occurred, in a six digit year-month-day format (e.g., 30-03-00).
- (n) Time. Enter the local time at which the alleged violation occurred using military time (e.g., 1105 for 11:05 a.m.; 1435 for 02:35 p.m.). Leave blank if a specific time of occurrence is not appropriate.
- (o) Date Known to DGCA. Enter, in numerals, the date on which anyone in the DGCA first learned of the incident which later was determined to be a violation, in a six digit year-month-day format (e.g. 29-04-00).
- (p) Location. Enter the name of the geographic location where the violation is alleged to have occurred. Use the airport identifier and name (if appropriate), the city and state, and any information needed to describe the location relative to a specific airport or city. The airport identifier standardizes the airport information.
- (q) Regulations Believed Violated. Enter all regulations violations believed substantiated by the evaluation and technical analysis. Be specific in identifying the regulations by section and subsection as appropriate. In those cases where the regulation cited fails to adequately identify the act or aggravated circumstance involved, and the investigating inspector believes that clarification is necessary, a clear text statement of not more than 150 characters may be inserted in this block following citation of the rule believed violated. In medical cases, enter the appropriate section or subsection of the regulation believed violated or, in cases involving medical disqualification, the specific section or subsection which establishes the medical qualification in question.

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- (r) Type. Enter the text which best describes the type of activity the alleged violator was engaged in at the time of the alleged violation.
- (s) Sub-type. Enter the text which best describes the sub-type of activity in which the alleged violator was engaged.
- (t) Category. Enter the text which best describes the category of the alleged violation.
- (u) Source. Enter the text to describe the source of the initial information relating to the alleged violation.
- (v) Accident Associated. Enter "NO" if an accident was not associated with the alleged violation, or "YES" if an accident was involved. If the alleged violation caused the accident, enter "CAUSED".
- (w) Type Action Recommended or Taken. Enter one of the following actions (items 25 thru 28 need not be completed in airman medical cases):
- (i) Administrative action
 - (ii) Civil penalty
 - (iii) Suspension
 - (iv) Emergency suspension
 - (v) Revocation
 - (vi) Emergency revocation
 - (vii) Referral to foreign government
 - (viii) Criminal action
 - (ix) Other recommended action should also be entered in addition to one of the above, when appropriate (e.g., aircraft seizure; cease and desist order; injunctive action; order of compliance).
 - (x) No action
- (x) Recommended sanction. Enter one of the following sanctions:
- (i) Warning Notice
 - (ii) Letter of Correction

- (iii) The dollar amount for recommended civil penalty.
 - (iv) The recommended duration for period of suspension (e.g., 180 days; pending compliance).
 - (v) No sanction need be entered when the recommended type action is other than administrative action, civil penalty, or suspension.
- (y) Date. Enter the date signed by the field office chief.
- (z) Investigating Office. Enter the appropriate DGCA Office.
- (aa) Regulations Believed Violated. Same as instructions for Item (q). If the investigating inspector entered an incorrect regulation in item (q), the correct regulation should be cited. May be left blank for administrative actions.
- (bb) Recommended Type Action. Same as instructions for Item (w). May be left blank for administrative actions.
- (cc) Recommended Sanction. Same as instructions for Item (x). May be left blank for administrative actions.
- (dd) Date. Enter the date signed by the Chief of Flight Safety.

5. SECTION B - SUMMARY OF FACTS.

The Summary of Facts is the second element of the EIR package and is assembled as a separate item behind DGCA OPS Form 100-7 (TBD). The Summary is a concise statement of those facts, established through the investigation, that are essential to proving the violation of each of the listed regulations. Where the rule lends itself, the wording of the Summary should tie directly to the wording of the particular regulation. The Summary need only briefly identify the "who did what, when, where, why and how" to assure clarity and understanding, since the details of the investigation and a complete statement of the facts and circumstances will be set out in the Facts and Analysis Section of the EIR. When the investigation fails to prove the allegation, the Summary should so state.

6. SECTION C - ITEMS OF PROOF.

The items of proof are the third element of the EIR, and should contain the originals of each exhibit submitted. When the size or nature of physical evidence precludes enclosing it with the report, appropriate photographs of such evidence should be included.

- (a) Section C should contain a numerical index of the items of proof, with a brief statement of each item's content. Each item of proof should be numbered consecutively as an exhibit.
- (b) the item of proof exhibits should be listed in a logical order to facilitate review.

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- (c) each item of documentary evidence referenced in the Facts and Analysis (Section D of the report) should be included as an exhibit.
- (d) the proof should include summaries of each conversation the inspector had with the airman, the witnesses, or anyone having any connection with the case. Each summary should include the name, address and telephone number of each person the inspector interviewed. If more than one inspector was present during the conversation, each inspector should prepare a summary of the conversation.

7. SECTION D - FACTS AND ANALYSIS.

(1) This section contains, first, a complete factual statement of the investigation of the alleged violation and, second, the inspector's evaluation and analysis of the results of the investigation and all pertinent safety and enforcement factors.

(2) *Facts.* Describe all the pertinent facts and circumstances. There should be an orderly and logical statement of each significant fact and related investigative action, with a reference to specific supporting exhibits. It may be appropriate to briefly describe the origin or the basis of the investigation, and it is usually helpful to the reader if the statement is organized in chronological fashion. The inspector has latitude to go into as much detail as necessary to assure an understanding of the investigation and violation. He should provide the depth of detail to suit the complexity and nature of the particular case.

Information Note: *This is not the place to introduce additional evidence, such as information learned in conversations with the alleged violator or witnesses. All evidence of the violation should be fully supported in Section C by witness statements, ramp inspection reports by the inspector, etc.*

(3) *Analysis.* Set out an analysis as to how safety was or was not affected, the violator's attitude, enforcement history, and economic and livelihood considerations. The reliability of evidence should be evaluated and conflicting evidence discussed. It may be necessary to again reference specific supporting exhibits. The inspector should fully analyze the alleged violator's explanation regarding the incident, such as appears in the interview record or the person's response to the letter of investigation. Mitigating, extenuating, and aggravating factors should be set out. The inspector's opinions, feelings and conjectures should be included where appropriate but care should be taken to label them as such. The inspector should provide a conclusion and set out the reasons justifying the recommended enforcement action and sanction.

(4) If any information is received after the EIR is forwarded to the Chief of Flight Safety, the inspector should prepare an analysis and forward it to the Chief of Flight Safety with the information. This analysis should indicate whether, based on the information, the inspector has changed his or her conclusions or recommendations regarding the facts, the regulations violated, or proposed sanction.

8. PROTECTION AND RELEASE OF EIR'S.

(1) *Protective Markings.* Enforcement Investigative Reports normally qualify for the designation of "FOR OFFICIAL USE ONLY" (FOUO) and should be so marked.

(2) *Release of Investigations.* Request for release of the EIR or investigative information should be handled in accordance with Article(s) (TBD) of the Lebanese Civil Aviation Safety Act. An EIR or any part of an EIR should be released only with the concurrence of the Minister.

9. EMERGENCY ENFORCEMENT ACTIONS.

The appropriate handling of a violation requiring emergency certificate suspension or revocation frequently will involve initiation of such action, through the Chief of Flight Safety and DGCA Counsel, prior to actual completion of the EIR. An advance or partial EIR should be prepared and forwarded, and the Chief of Flight Safety and legal counsel should be provided copies of all evidence that supports the alleged violation. The complete EIR package should be completed as expeditiously as possible.

10. DOWNGRADING OF EIR's.

EIR'S initiated by a DGCA inspector for legal enforcement may, in some cases, be returned by the Chief of Flight Safety for downgrading to administrative action or no action. In this case, the inspector should prepare and process an appropriate EIR using the same EIR number shown on the original, and with the annotation at the top of the form, "DOWNGRADED."

Insert Figure 1 2150-5

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DIVISION IX.**PROCESSING OF ENFORCEMENT INVESTIGATIVE REPORTS****1. PURPOSE.**

This Division provides guidance and general information concerning the processing of all Enforcement Investigative Reports (EIR's) prepared pursuant to this Order.

2. PROCESSING OF EIR'S FOR ADMINISTRATIVE ACTION.

(1) The DGCA Inspector is authorized to issue warning notices and letters of correction. The letters are developed as prescribed in Division 10 . The EIR number (case code number) originally assigned at the time the investigation was initiated shall be used to identify the EIR. An investigation file, including copies of DGCA OPS Form 100-7 (TBD) and the warning letter or letter of correction, shall be retained by the DGCA Documentation Center for no less than 6 months. The DGCA OPS Form 100-7 (TBD) (or complete EIR, if required) shall be distributed as required.

(2) *Chief of Flight Safety Office.* The Chief of Flight Safety, shall review the Administrative Enforcement Action for internal purposes. If the investigating inspector entered an incorrect regulation in Item (q) on the DGCA OPS Form 100-7 (TBD), the correct regulation should be cited in the Chief of Flight Safety Review Section. No other changes should be made.

3. PROCESSING OF EIR'S FOR LEGAL ENFORCEMENT ACTION.

(1) *DGCA Inspector.*

- (a) the EIR number (case code number) assigned at the time the investigation was initiated shall be used to identify the EIR.
- (b) the DGCA Inspector shall forward the EIR to the Chief of Flight Safety.
- (c) after enforcement action has been completed, the investigating inspector should assure that the following persons and offices are advised of the final disposition:
 - (i) each person or organization to whom a letter of investigation was sent.
 - (ii) each supporting DGCA office.
 - (iii) any DGCA, person, or organization which provided the complaint or information that was the basis for initiating the investigation.
- (d) the DGCA Inspector shall retain a complete investigation file, including a copy of the EIR, until final action has been completed on the case.

(2) *Chief of Flight Safety.*

- (a) upon receipt of the EIR, the Chief of Flight Safety shall review the file to determine:
 - (i) the adequacy of the investigation;
 - (ii) that the correct regulations are cited; and
 - (iii) that the type of enforcement action and sanction recommended by the investigating inspector are appropriate.
- (b) if the Chief of Flight Safety concurs with the inspector, he may forward the EIR to the Director General of Civil Aviation without comment.

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- (c) if the Chief of Flight Safety determines that the investigation was not adequately completed, he should return the file to the inspector with specific instructions for further investigation.
- (d) if the Chief of Flight Safety questions the sufficiency of the evidence for legal enforcement action, he should contact legal counsel to discuss the issue before closing the case.
- (e) if the Chief of Flight Safety determines that legal enforcement action is not appropriate, he shall return the file to the inspector with specific reasons for taking administrative enforcement action or, when no action is required, for closing the case without action.
- (f) if the Chief of Flight Safety determines that legal enforcement action is appropriate, but disagrees with the inspector as to the regulations violated or the sanction, he shall prepare a technical analysis and evaluation, including:
 - (i) an independent technical analysis of the facts, safety impacts, and violations;
 - (ii) a recommendation for the type of legal enforcement action required for aviation safety and the public interest; and
 - (iii) a recommendation for a specific sanction.
- (g) the EIR, along with the Chief of Flight Safety's technical analysis and recommendations, is transmitted to the Director General of Civil Aviation.
- (h) the determination of the type of legal enforcement action and sanction is a joint responsibility of the Chief of Flight Safety and legal counsel.
- (i) after completion of the enforcement action the Chief of Flight Safety promptly shall inform the investigating inspector of the final disposition.
- (j) the legal enforcement file held by the DGCA Documentation Center is the official DGCA record copy, and shall be retained, transferred, and disposed of in accordance with **(TBD)**.

(3) DGCA Counsel.

- (a) upon receipt of the EIR, the DGCA Counsel reviews the file for the sufficiency of the evidence to support the type of action recommended by the Chief of Flight Safety. If the evidence is insufficient, the additional information needed should be coordinated through the Chief of Flight Safety.
- (b) the DGCA Counsel shall make an independent determination of the appropriate sanction type and amount, giving due consideration to the sanction recommended by the Chief of Flight Safety. If the DGCA Counsel's assessment of the appropriate sanction differs from that of the Chief of Flight Safety, counsel and the Chief of Flight Safety shall confer in an effort to reach an agreement. If no agreement can be reached, the issue shall be elevated to the Director General of Civil Aviation.
- (c) when the DGCA Counsel determines that sufficient evidence exists to support the recommended legal enforcement action, and a sanction has been determined, legal enforcement action shall be initiated as provided in Division 11. Once legal enforcement action has been initiated, counsel can make recommendations, however the Chief of Flight Safety has the final authority to change the type of action or sanction, or enter into a settlement agreement.

4. REPORTS REQUIRING SPECIAL PROCESSING.*(1) Violations of Foreign Aviation Regulations.*

- (a) enforcement cases against Lebanese certificate holders, Lebanese citizens, or Lebanese companies involved in violations of foreign aviation regulations are processed as outlined in this Division.
- (b) upon completion of DGCA enforcement action the DGCA advise the foreign aviation authority through, if appropriate, the Lebanese Foreign Service Post.

(2) Violations of Lebanese regulations by foreign persons and companies.

- (a) after the DGCA Inspector completion of the investigation, the EIR shall be forwarded to the Chief of Flight Safety.
- (b) the Chief of Flight Safety reviews and processes the EIR as outlined in this Division.
- (c) The Director General of Civil aviation determines, in consultation with the Lebanese Office of International Affairs, whether legal enforcement action directly against the alleged violator or referral of a complaint to the foreign government is appropriate.
 - (i) when a complaint is to be made to a foreign government, the Director General of Civil Aviation prepares a letter to the Department of State requesting that the violation be brought to the attention of the foreign government. A copy of the letter shall be sent to the Lebanese Office of International Aviation Affairs. The letter to the Department of State should include a brief summary of the facts, the regulations violated, and a request that DGCA be advised of any action taken by the foreign government. A copy of the EIR shall accompany the referral letter.
 - (ii) when direct legal enforcement action is appropriate, procedures outlined in Division 11 shall be used.

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DIVISION X.

ADMINISTRATIVE ENFORCEMENT ACTION

1. PURPOSE.

The purpose for administrative enforcement action is to provide the field inspector with administrative means for disposing of minor types of violations which do not require the use of legal enforcement sanctions.

2. GENERAL.

While administrative enforcement action may be taken only in cases where there is conclusive evidence of a violation, the action does not charge the person involved with a violation. It is intended to bring the incident to the attention of the person involved, document corrective action, encourage future compliance with the regulations, and provide a source of information for DGCA use.

3. TYPES OF ADMINISTRATIVE ACTION.

For statistical purposes, Section A of the Enforcement Investigative Report (EIR), DGCA Form (TBD), should be used as the means for reporting the issuance of administrative enforcement action. Two types of administrative action are authorized: warning notices and letters of correction.

4. WARNING NOTICE.

- (1) The warning is a letter or form addressed to the alleged violator which:
- (a) brings to the attention of the alleged violator the facts and circumstances of the incident;
 - (b) advises that, on the basis of available information, such operations or practices are contrary to the regulations;
 - (c) states that the matter has been corrected and/or does not warrant legal enforcement action; and
 - (d) requests future compliance with the regulations.

See figure 15.

(2) When a letter of investigation has not previously been issued, the following language should be included in all warning notices:

- ❖ If you wish to add any information in explanation or mitigation please write to me at the above address.
- ❖ This language need not be included in letters of correction because letters of correction must be accepted by the alleged violator. If the alleged violator provides any information, it should be evaluated to determine whether the warning notice continues to be appropriate. If not, the warning notice shall be withdrawn.

5. LETTER OF CORRECTION.

The letter of correction serves the same purposes as the warning notice, but is intended for use when there is agreement with the company, organization, or airmen that corrective action acceptable to the DGCA has been taken, or will be taken, within a reasonable time, (see figure 16 to 19).

- (a) the letter of correction usually confirms a discussion with the person involved in which a violation(s) is/are acknowledged and appropriate corrective action initiated. It may also cover discrepancies and/or areas of needed improvement.
- (b) consideration should be given whether corrective action must be immediate or may be taken within a reasonable period of time.
- (c) a letter of correction should not be used to forward suggestions and recommendations by themselves; its sole purpose is to correct conditions which are in violation of the LARs. Reference may be made to an attachment containing recommendations and suggestions, provided each item is appropriately segregated and identified to prevent a recommendation or suggestion from being misinterpreted as requiring corrective action under the Lebanese Aviation Regulations.
- (d) when corrective action has not been completed at the time the letter of correction is issued, the inspector shall assure that timely follow-up inspection is completed. When the action is completed, the inspector shall send a letter acknowledging that fact and closing the case,(see Sample Letter Acknowledging Completion of Corrective Action, (see figure 20).
- (e) any continued noncompliance following receipt of the letter of correction shall be followed by more severe enforcement action.

6. RECORDS OF ADMINISTRATIVE ACTION AGAINST INDIVIDUALS.

Administrative actions are made a matter of record. To avoid undue burden to individual airmen, administrative actions arising against persons acting in their capacities as individual certificated airmen will be expunged after a period of two years following the issuance of the administrative action. The following statement shall be included in all such actions against certificated airmen:

- ❖ We are issuing this letter which will be a matter of official record for a period of two years, after which, the record of this matter will be expunged.

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FIGURE 15.

SAMPLE WARNING NOTICE FLIGHT OPERATIONS

November 20, 1999

EIR No. 00001

Mr. Fred Smith
1075 Victory Boulevard
Beirut Lebanon

Dear Mr. Smith:

On October 20, 1999, you were the pilot in command of a Beech Baron N13697 that landed at the City Airport. At the time of your flight, you did not have in your personal possession a pilot certificate, although you do hold a valid commercial pilot certificate. This is contrary to the Lebanese Aviation Regulations.

After a discussion with you concerning this flight and your inadvertent failure to have your pilot certificate with you, we have concluded that the matter does not warrant legal enforcement action. In lieu of such action, we are issuing this letter which will be made a matter of record for a period of two years, after which, the record of this matter will be expunged.

If you wish to add any information in explanation or mitigation please write me at the above address. We will expect your future compliance with the regulations.

Sincerely,

JOHN J. FRANK
Directorate General of Civil Aviation

Attached: xxxx

FIGURE 16.

SAMPLE LETTER OF CORRECTION MAINTENANCE

April 30, 1988

The Aerospace Company
Attention: Mr. J. A. Jones, President
1200 International Way
Beirut Lebanon

Dear Sir:

Your repair station's organization, systems, facilities, and procedures were examined for compliance with applicable Lebanese Aviation Regulations (LARs) during the period April 1-10, 1999. At the end of that examination, you were advised of our findings as follows:

The summary of employment of each person whose name appears on the roster of supervisory and inspection personnel was not available for three of the employees, as required by Section xxxx of the LARs.

This is to confirm our discussion with you on April 8, 1999, at which time immediate corrective action was begun. You submitted the required summary of employment for DGCA inspection on April 10, 1999.

As a result of our discussion of this incident, you have revised your procedures for maintaining the required summaries of employment.

In closing this case, we have given consideration to all available facts and concluded that the matter does not warrant legal enforcement action. In lieu of such action, we are issuing this letter which will be made a matter of record.

Sincerely,

JOHN L. DOE
Directorate General of Civil Aviation

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DIVISION XI.

LEGAL ENFORCEMENT ACTION

1. PURPOSE.

(TBD) by Legal Expert

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DIVISION XII.

WRITING ENFORCEMENT INVESTIGATIVE REPORTS (EIR)

1. PURPOSE.

(TBD) Ops Expert

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