

State Enforcement Policy

Policy Statement 03 | Effective: 7 December 2018

A Background

The Maldives CAA enforcement policy is aimed at promoting compliance with aviation safety regulations and requirements through enforcement functions in an equitable manner. Specifically, the implementation of safety management systems (SMS) requires the CAA to have an equitable and discretionary enforcement approach in order to support the State Safety Programme SSP-SMS framework.

The CAA enforcement policy and procedures will also allow service providers to deal with, and resolve, certain events involving safety deviations, internally, within the context of the service provider's SMS, and to the satisfaction of the Authority. The enforcement policy also seeks to encourage the reporting of safety events by persons or organisations, with the assurance that the information will be used for the purposes of improving safety.

Intentional contraventions of the regulations will be investigated and may be subject to conventional enforcement action where appropriate. There are clear provisions in the enforcement framework in order to distinguish between premeditated violations and unintentional errors or deviations.

B Policy Statements

ENFORCEMENT & SAFETY MANAGEMENT

1. Information derived from safety data collection and processing systems established under an approved SMS, and information reported to the CAA as a mandatory or voluntary report will not be used as the basis for punitive enforcement action against an individual or organisation.
2. The CAA will not take punitive enforcement actions in a case where safety deviations are being resolved to the satisfaction of the CAA in the context of an approved Safety Management System.
3. The above principles will not be applied if:
 - a. the CAA suspects that there is a deliberate effort to conceal non-compliance with safety regulations or standards; or,
 - b. the CAA has found during oversight activities that an approved SMS no longer meets required standards; or,
 - c. the certificate/licence holder/service provider is a recurrent violator¹; or,
 - d. in case of dereliction of duty amounting to gross negligence², wilful violations or destructive acts.

¹ A recurrent violator is a violator, who, in the past 24 months, has had the same or closely related violations and / or has failed to implement mitigating actions identified during previous investigations.

² For the purpose of this policy, gross negligence is "where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of aviation safety" - (EU) No 376/2014.

4. CAA enforcement decision making will be conducted within a framework of a Just Culture³ using mechanisms such as Reason's 'Managing the Risks of Organisational Accidents'. A decision tree for determining the culpability of unsafe acts is given in Appendix 1.

PROPORTIONALITY OF RESPONSES

5. Enforcement decisions will be proportionate to the identified breaches and the safety risks they underline, based on the following principles:
- the CAA will take firm enforcement action against those who consistently or deliberately contravene the safety rules and procedures, and
 - the CAA will provide a measured response to less serious contraventions of the safety rules and procedures and will seek to provide guidance and promote training or supervision of those who show commitment to resolving these issues, rather than taking punitive actions
 - the CAA will give due and equitable consideration to distinguish premeditated violations from unintentional errors or deviations.

ENFORCEMENT ACTIONS

6. Enforcement actions may include:
- counselling;
 - remedial training;
 - administrative fines;
 - variation, suspension or revocation of a certificate, approval or authorisation; or
 - prosecution as provided for in the applicable legislation

IMPARTIALITY OF ENFORCEMENT ACTIONS

7. Enforcement decisions will not be influenced by:
- personal conflict;
 - personal gain;
 - considerations such as gender, race, religion, political views or affiliation; or
 - personal, political or financial power of those involved.

NATURAL JUSTICE AND ACCOUNTABILITY

8. Enforcement decisions will:
- be fair and follow due process,
 - be transparent to those involved;
 - take into account the circumstances of the case and the attitude/actions of the certificate/licence holder when considering action;
 - take due consideration of precedent enforcement decisions for like/similar circumstances; and
 - be subject to appropriate internal and external review in accordance with the relevant regulations



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³ For the purposes of this Policy, Just Culture "means a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated" - (EU) No 376/2014.