



Part 13

Investigation and Enforcement Procedures

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Investigative and Enforcement Procedures

13.1 Reports of violations

- (a) Any person who knows of a violation of the Egyptian Civil Aviation Law number 28, of 1981, as amended, or any rule, regulation, or order issued there under, should report it to appropriate personnel of any ECAA office.
- (b) Each report made under this section, together with any other information the ECAA may have that is relevant to the matter reported, will be reviewed by ECAA personnel to determine the nature and type of any additional investigation or enforcement action the ECAA will take.

13.3 Investigations (general)

- (a) The ECAA may conduct investigations, hold hearings, issue subpoena as, require the production of relevant documents, records, and property, and take evidence and depositions.
- (b) 'Enforcement action' is action taken by ECAA:
 - (1) When it detects a breach of the Civil Aviation Law, civil aviation regulations or of other instruments made under the Law and regulations (the aviation law) with which compliance is compulsory
 - (2) For the purpose of securing compliance with the civil aviation law
 - (3) Which is not an audit-related action (such as the issue of a Recommend actions or post-audited review).
- (c) Breaches of the aviation law may occur for many different reasons, format equine understands of that law, to able Atlantis regard for aviation safety. ECAA has arranged of enforcement to losing order to effectively address its safety obligations under the Law in light of differing circumstances. These tools are:
 - (1) Counseling
 - (2) Remedial training
 - (3) Enforceable voluntary undertakings
 - (4) Variation, suspension and cancellation of authorizations
 - (5) Infringement notices
 - (6) Recommending prosecution
 - (7) The demerit points scheme.
- (d) It should also be noted that ECAA could require the holder of a civil aviation authorization to undergo an examination to test competence or medical fitness. What generally happens in relation to an examination to test competence is that ECAA discovers a deficiency, which suggests that allowing the holder to continue to exercise the privileges of that authorization may constitute nun accept able risk to air safety because the holder may not have the knowledge to be able to exercise those privileges without creating that un acceptable risk. An examination is called or in order to confirmordispelthat feeling.
- (e) Formal complaint against the violating person to the Court shall be filed by the Minister of Civil Aviation
- (f) Each record, document and report that the ECARs requires to be maintained, exhibited or submitted to the ECAA may be used in any investigation conducted by the ECAA; and, except to the extent the use may be specifically limited or prohibited by the section which imposes the requirement, the records, documents and reports maybe used in any civil penalty action, certificate action, or other legal proceeding.

13.5 Formal complaints

- (a) Any person may file a complaint to the Chairman with respect to anything done or omitted to be done by any person in contravention of any provision of the Law or of any regulation, standards or procedures issued under it, as to matters within the jurisdiction of the Chairman. This section does not apply to complaints against the Chairman or employees of the ECAA acting within the scope of their employment.
- (b) Complaints filed under this section must:
 - (1) Be submitted in writing and identified as a complaint filed for the purpose of seeking an appropriate order or other enforcement action;
 - (2) Be submitted to H ECAA

- (3) Set forth the name and address, if known, of each person who is the subject of the complaint and, with respect to each person, the specific provisions of the Law or regulation or order that the complainant believes were violated;
 - (4) Contain a concise but complete statement of the facts relied upon to substantiate each allegation;
 - (5) State the name, address and telephone number of the person filing the complaint; and
 - (6) Be signed by the person filing the complaint or a duly authorized representative.
- (c) Complaints which do not meet the requirements of paragraph (b) of this section will be considered reports under section 13.1.
- (d) Complaints which meet the requirements of paragraph (b) of this section will be filed and a copy mailed to each person named in the complaint.
- (e) The person named in the complaint shall file an answer within 20 days after service of a copy of the complaint.
- (f) After the complaint has been answered or after the allotted time in which to file an answer has expired, the H ECAA shall determine if there are reasonable grounds for investigating the complaint.
- (g) If the H ECAA determines that a complaint does not state facts which warrant an investigation or action, the complaint may be dismissed without a hearing and the reason for the dismissal shall be given, in writing, to the person who filed the complaint and the person named in the complaint.
- (h) If the H ECAA determines that reasonable grounds exist, an investigation may be initiated. Each person named in the complaint shall be advised which official has been delegated the responsibility for conducting the investigation.
- (i) If the investigation substantiates the allegations set forth in the complaint, enforcement action may be taken in accordance with this Part.
- (j) The complaint and other pleadings and official ECAA records relating to the disposition of the complaint are maintained at the ECAA main offices. Any interested person may examine that material at that office, except material that is ordered withheld from the public under applicable laws or regulations, and may obtain a Photo static or duplicate copy upon paying the cost of the copy.

13.7 Investigation and enforcement

- (a) If, as a result of an inspection or other investigation made by the ECAA or his representatives, authorized by the Civil Aviation Law, the ECAA determines that the public interest and safety in aviation requires it, the ECAA may issue an order amending, suspending, or revoking, all or part of any type certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, maintenance organization approval, air navigation facility certificate, air traffic control certificate, airport operating certificate, air agency certificate or any other authority, agreement or approval issued by ECAA.
- (b) Before issuing an order under paragraph (a) of this section, the ECAA advises the certificate holder of the charges or other reasons upon which the ECAA bases the proposed action and, except in an emergency, allows the holder to answer any charges and to be heard as to why the certificate should not be amended, suspended, or revoked. The holder may elect to:
 - (1) Admit the charges and surrender his or her certificate;
 - (2) Answer the charges in writing; or
 - (3) Request an opportunity to be heard in an informal conference with the HECAA.
- (c) Any person whose certificate is affected by an order issued under this section may appeal to the Minister of Civil Aviation. If the certificate holder files an appeal with the Minister, the ECAA's order is stayed unless the ECAA advises the Minister that an emergency exists and safety in aviation requires that the order become effective immediately. If the Minister is so advised, the order remains effective and the Minister shall finally dispose of the appeal within 60 days after the date of the advice.
- (d) This paragraph does not apply to any person whose airman certificate, flight permit, certificate of aircraft registration or certificate of air worthiness is affected by an order issued under this section.

13.8 Penalties and sanctions

- (a) The penalties and sanctions in this Part are prescribed either by the Civil Aviation Law or by orders issued by the Minister of Civil Aviation. These penalties and sanctions do not prejudice or limit other penalties and sanctions that may be issued by the Minister of Civil Aviation, the pen allow, or any other Laws of the Arab Republic of Egypt.
- (b) Any person who knowingly commits an act in violation of the hazardous materials regulations or any rule, regulation, or order issued there under, is subject to a civil penalty. Civil penalty for a violation issued there under, will be issued only after consideration of:
 - (1) The nature and circumstances of the violation;
 - (2) The extent and gravity of the violation;
 - (3) The person's degree of culpability;
 - (4) The person's history of prior violations;
 - (5) The person's ability to pay the civil penalty;
 - (6) The effect on the person's ability to continue in business; and
 - (7) Such other matters as justice may require.
- (c) Enforcement decisions are proportional responses to the identified breaches and the safety risk they give rise to. In particular:
 - (1) ECAA's first priority is to protect the safety of fare-paying passengers
 - (2) ECAA will takes strong action against those who consistently and deliberately operate outside the civil aviation law
 - (3) ECAA will seek to educate and promote training or supervision of those who evidence a lack of proficiency but a willingness to comply with the civil aviation law
 - (4) ECAA will prefer the use of infringement notices to license action when dealing with private pilots who breach the law.

13.9 Sanctions with respect to the Egyptian Civil Aviation Law

- (a) **Art.6:** Inspecting aircraft, preventing their flying and impounding their documents:
The civil aviation authorities shall have the right, as deemed necessary to inspect any aircraft and detain it from flying, or impound any documents relating thereto for the purpose of monitoring the enforcement of the provisions of this law.
- (b) **Art.37:** Inspection to ensure airworthiness and flight operations requirements:
The ECAA whenever it deems necessary, may conduct inspections on aircraft, or operator's operations, flights, stations, and hence maintenance and operation bases inside and outside of the Arab Republic of Egypt, or flight tests of an aircraft, without requesting the operator's permission or notifying him, so as to ensure the airworthiness of the aircraft or any of its equipment or components or units as shown in the certificate of airworthiness relating thereto. Cost of such processes shall be borne by the operator. The representative of the authority shall have the right to enter the place where the aircraft is kept to conduct such inspections or tests. Moreover the ECAA has the right to issue instructions to the operator as it deems necessary in this respect. The ECAA has the right, in case of finding violations in any of the procedures mentioned above, to suspend the aircraft airworthiness certificate or its flight permit.
- (c) **Art.61:** Documents Withdrawal/suspension
If any certificate, license, approval, permit or any other document issued by Civil Aviation Authority is determined to be withdrawn or suspended, the person to who much document is issued or the person keeping it shall deliver it to such authority upon request or as soon as possible.
- (d) **Art.146:** Preventive Measures:
An aircraft's captain, if he believed for reasonable reasons that someone has committed or sets out to commit any of the offenses prescribed for in this Chapter or any act that may jeopardize the safety of the aircraft, may take against such person any measure she deems necessary and preventive. Also, he may request assistance of passengers or authorize them to do so, but it is not permitted to force them to.
- (e) **Art.147:** Notification of the Existence of a Suspect on board:
 - (1) An aircraft's captain may request the competent authorities in the State where the aircraft lands in its territory to take down the person referred to in the preceding Article, specifying the reasons justifying such measure.
 - (2) If the aircraft's captain see she should deliver the said person due to the danger of the crime, he/she shall notify the authorities of the State where the aircraft lands in its territory as soon as possible, specifying the reasons. He/ She shall, upon landing, submit the evidences and information available to him/her.

(f) **Art.148:**Non-liability for preventive measures:

With regards to actions to be taken in accordance with Article(146), the liability of the aircraft's captain, any cabin crew member, any passenger, owner/operator or the person for whom the flight is made, shall be deemed disclaimed in any claim arising from the treatment of the person against whom such actions are taken.

(g) **Art.149:**Restoration of control to pilot-in-command, and allowing passengers to Continue their flight: The competent authorities shall, in the event of committing any of fens prescribed for in this law, set out to commit such or doing any action that may jeopardize the aircraft's safety, take all necessary measures to restore the aircraft's captain's control over the aircraft or to maintain his/her control over such. In such cases, passengers and cabin crew members of the aircraft landed in the territory of the State shall be allowed to continue their flight as soon as possible, and the competent authorities shall return the aircraft and goods on board to the persons who are legally entitled such.

(h) **Art.151:** Disembarkation of offender:

The competent authorities shall allow the pilot-in-command to disembark any person from the aircraft in accordance with the provisions of paragraph (e).

(i) **Art.152:** Legal proceedings:

The competent Authorities shall take over any accused the captain delivered to it in accordance with the provisions of paragraph (e) here of, and shall immediately conduct an investigation about the incident. The authorities shall take procedures if it finds the offense falling within the jurisdiction of the State in compliance with the provisions of this law. And if finds the offense not falling within the jurisdiction referred to, it shall take the appropriate decision in such regard according to the law.

In all cases- such authorities shall according to the law-have the right to deliver the suspect to his/her State of nationality, the State where he/she resides in permanently or the State from which he/she had begun his flight.

(j) **Art.153:** Procedures for security and safety of civil aviation:

Civil Aviation Authority shall take all preventive measures required for preventing passengers from committing acts and offenses against the security and safety of Civil Aviation inside the State and onboard of national aircrafts in the light of the international rules in this respect.

(k) **Art.154:** Judicial Seizure Capacity:

Employees of the civil aviation authority, who are designated by the Minister of justice after agreement with the competent Minister, shall be vested with power of apprehensionwithrespecttoviolationsoftheprovisionsofthislawordecreesissued in execution thereof.

(l) **Art.155:** Administrative Sanctions Imposed by Civil Aviation Authority:

Without prejudice to criminal penalties defined in accordance with this law, any other law or disciplinary sanctions defined by virtue of laws and regulations. Civil Aviation Authority may, in case of violating any of the provisions of this law or the decrees implementing thereof, impose one or more of the following administrative sanctions:

- (1) Suspension or cancellation of the authorization for a certain period.
- (2) Suspension or cancellation of the certificate of efficiency for a certain period.
- (3) Suspension of the permit issued for the aircraft for a certain period or with drawl there of permanently.
- (4) Suspension of the license or eligibility for a certain period or with drawl there of permanently.
- (5) Prevention of the aircraft to fly for a certain period or forcing it to land after being warned.
- (6) Prevention of the aircraft captain to fly in the territory of the State for a certain period or permanently.

(m) **Art.158:** Violation of commercial air transport rights:

In case of the foreign company violating the provisions of the bilateral Air Transport Agreements concluded between Egypt and the State to which the company is affiliated or the violating the authorization or the permits issued there to, the violating company shall abide by paying the Civil Aviation Authority an amount equivalent to double the highest fee of full carriage on the number of the carried passengers in violation and the fees shall be calculated based on what is given to one of the companies working on the same airline or similar airlines.

13.10 Penalties with respect to the Egyptian Civil Aviation Law

- (a) **Art167:** Without prejudice to any severe penalty set forth in any other law; the crimes prescribed for in the following Articles shall have the penalties established therein.
- (b) **Art 168:** Whoever takes by force or control any means of air transport, shall be punished by the rigorous imprisonment. Life imprisonment shall be the penalty if the felon, to commit the crime set forth in the preceding paragraph, does any act of violence, hitting, injuring or harming of any person inside or outside such means of carriage by air or resists, by force or threat, any of the general authorities during performing the air job recapturing the means after being taken over or controlled or preventing such authority from performing its job. Execution shall be the penalty if such act results in the death of a person inside or outside the means of carriage by air.
- (c) **Art 169:** Life imprisonment or the rigorous imprisonment shall be the penalty if one of the following acts is done deliberately:
- (1) Destroying, damaging, disabling or sabotaging any of the means of air transport during flight or being at the airport or in the landing area.
 - (2) Destroying, damaging, sabotaging or disabling any devices, equipment or facilities of the air navigation, aerodromes or other facilities of air transport service.
 - (3) Putting devices or substances in one of the means of carriage by air with the purpose of destroying, damaging, sabotaging or disabling or jeopardizing the safety of the flight.
 - (4) Every behavior intended to harm means of communication and control assigned to the air navigation if it is to jeopardize the safety of flying.
 - (5) Stealing the devices or the equipment of the air navigation or the aerodrome's fittings.
 - (6) Carrying weapons, ammunitions or explosives on one a means of air transport with the intention of committing a crime prescribed for in the Penal Law impinging the State's security, externally or internally.
 - (7) Carrying weapons, ammunitions, explosives, any flammable substances or any other substances with the purpose of doing any acts of destroying, damaging, sabotaging or disabling set for in this Article.
- Execution shall be the penalty if any of the acts prescribed for in the preceding item results in the death of someone.
- The means of carriage by air shall be confiscated if the perpetrator of the crime set for thin item (7) is the owner of the means of carriage by air or if he is aware of its committing.
- (d) **Art170:** Whoever commits any of the following shall be punished by detention for a minimum one year period of time not exceeding five years and/or by a minimum fine of five thousand pounds and not exceeding fifty thousand pounds:
- (1) Repotsdeliberatelyfalseinformationthatistojeopardizethesafetyofoneof the means of air transport or post pone its taking- off time due.
 - (2) Drives one of the means of carriage by air that does not carry an evidence of its nationality, registration marks or carries false or unclear marks for the purpose of hiding nationality or the State of registry without a permit from the civil aviation authority.
 - (3) Deliberately lands or takeoff, without a special permit from the civil aviation authority, outside the declared aerodromes, landing areas and airstrips.
 - (4) Refrains from implementing the landing order issued by the competent authority during flying over the State's territory.
 - (5) Drives an aircraft or works within its crew while being drunk or under the influence of alcohol or drugs.
 - (6) Does not—deliberately- record the data required to be written in the aircraft or air traffic's documents, or the log books there of or change any of such data, or record any data in violation of the relevant decrees, if any of the above mentioned is to jeopardize the aircraft or the safety of the flight.
 - (7) Without prejudice to the rights of third party, an aircraft confiscation may be carried out if conviction of the crimes prescribed in item (2) of this Article is decreed.
- (e) **Art 171:** Whoever commits any of the following is punished by detention and/ or minimum of five thousand pounds fine not exceeding fifty thousand pounds:
- (1) Using force, violence or threatening against any person on board or in any of the air traffic units if such would jeopardize the aviation traffic.
 - (2) Refusing to comply with any of the orders issued by the captain of the aircraft during the aviation if that would endanger the air traffic.

- (f) **Art 172:** Whoever commits any of the following is punished by detention for a period of time not exceeding two years and/or a minimum of five thousand pounds fine not exceeding a hundred thousand pounds:
- (1) Operating the aircraft before obtaining the certificate of registration, airworthiness certificate, type certificate or without having the documents and log books prescribed in Article (57) of Law 28 for year 1981 as amended or the flight permit from the civil aviation authority
 - (2) Driving an aircraft without having the licenses or qualifications established for him/her.
 - (3) Building an aerodrome, landing area, an airstrip or a facility of air navigation service or operating any of them without a permit of such in accordance with the provision of this law.
 - (4) Flying, incases other than emergency, out of the defined areas and ways without a special permit from the civil aviation authority.
 - (5) Non-compliance with the commands issued to him when, unintentionally, flying with the aircraft over a prohibited, restricted or dangerous area or existing with the aircraft above such area.
 - (6) Existing, without permit, in the aircraft movement areas that are prohibited to enter or leaving things and animals inside it that would jeopardize the safety of flight.

- (g) **Art 173:** Whoever commits any of the following is punished by detention for a period of time not exceeding one year and/or a minimum of one thousand pounds fine not exceeding thirty thousand pounds:
- (1) Practicing any of civil aviation activities before obtaining a permit of such from the competent Minister and a certificate of operational efficiency from the civil aviation authority.
 - (2) Doing any of the civil aviation service's works without obtaining a special permit from the civil aviation authority.

- (h) **Art 174:** Whoever violates any of the provisions of Articles 24 and 25 of Law 28 for year 1981 as amended, resumes any of the works previously ceased through the administrative way or refrains from implementing the disposal during the period defined by the Civil Aviation Authority is punished by detention for a period of time not less than one year and a minimum of twenty thousand pounds of the violating works. The contractor executing such works is punished by the same penalty if the works are established without a permit from the Civil Aviation Authority or in violation thereof; also, the officer of the administrative body competent of the regulation affairs is punished by the same penalty if involved in committing such violations.

And in all cases, disposal of the violating works at the expense of the violator shall be decreed.

- (i) **Art 175:** Whoever commits any of the following shall be punished by a minimum fine of five pounds and not exceeding ten thousand pounds:

- (1) Being very drunk or under the influence of alcohol on board. (2) Smoking on board.

Without prejudice of the provisions of Article 18 (bis) of the Criminal Procedure Act, reconciliation may take place regarding the crimes prescribed for in the preceding two items when the violator pays half of the minimum of the penalty immediately, the head of the aircraft's stewards crew or an judicial arrest officer shall, as the case may be, offered conciliation and write minutes thereof and an action ex-delic to consequently abates by reconciliation.

- (j) **Art 176:** Whoever violates any other provision of this law is punished by a minimum of one thousand pounds fine not exceeding fifty thousand pounds.

Without prejudice of the provisions of Article 18 (bis) of Criminal Procedure Act, reconciliation may take place regarding the crimes set forth in the present Article; a competent judicial arrest officer shall offer conciliation and write its minutes. The same provisions prescribed in Article (135) of Law 28 for year 1981 as amended shall be applied to such reconciliation.

- (k) **Art 177:** Whoever sets out any of the misdemeanors prescribed for in this law is punished by half of the penalty Stated for a perfect crime.

- (l) **Art 178:** Without prejudice to the provisions of the Articles: 1, 2, 3 and 4 of the Penal Code, the provisions of penalties prescribed for in this law shall be applied to whoever commits a crime prescribed for therein out of Egypt in the following cases:

- (1) If he/she commits a crime against one of the means of carriage by air that are registered in, or carrying the flag of the State, or on board.
- (2) If he/she commits a crime against or on board of any of the means of carriage by air

leased, without a crew, to a leased whose head quarters or permanent place of residence is in the State.

(3) If such crime causes damage to any of the means of carriage by air set for thin the preceding two items or if it is intended to force the State or any of the authorities or organizations thereof to make or refrain from an action

(4) If the perpetrator is a foreigner existing in Egypt, in case he/she is not surrendered.

(m) **Art 179:** Authorities of fact finding, investigation and trial shall be competent to the procedures prescribed in this law and in the Criminal Procedure Act regarding the crimes committed abroad and the provisions of this law are applied there to.

Cairo Criminal Court or Abd in Summary Court, as the case may be, shall become patent to adjudicate such crimes.

(n) **Art 180:** Except for the crimes prescribed in the paragraph(d),(e),(f),(g),(h), (i)&(j) of this section, filing criminal proceedings or taking investigation's procedures in the crimes prescribed for in this law may not made unless upon a written request from the competent Minister.

13.11 Penalties and sanctions with respect to Ministerial Orders

The following acts are considered as violations to the acts and rules mentioned in the Egyptian Civil Aviation Law number 28 issued on 1981:

- (a) Operating an aircraft without any of the documents required to be carried on board;
- (b) Operating an aircraft after the period of validity of any of its related documents;
- (c) Operating an aircraft or intending to operate it with technical defects, affecting aviation safety, and beyond the approved minimum equipment list approve for its type;
- (d) Violating the maintenance program approved from the Egyptian ECAA for the aircraft, its engines, its components or its units;
- (e) Transporting dangerous or prohibited goods according to the National laws without previous permit;
- (f) Exercising maintenance actions beyond the privileges of the aircraft maintenance engineer license or approval;
- (g) Exercising maintenance actions on aircraft by maintenance engineers holding an invalid license;
- (h) Exercising maintenance actions on aircraft by a maintenance engineer holding an appropriate valid license but without carrying it; and
- (i) A maintenance personnel not complying with the appropriate maintenance actions according to the approved maintenance schedule; and
- (j) Penalties, mentioned in paragraph13.10 (j) of that law, are applicable to the above listed violations.

13.13 Consent orders

- (a) At any time before the issuance of an order under this Part, the official who issued the notice and the person subject to the notice may agree to dispose of the case by the issuance of a consent order by the official.
- (b) A proposal for a consent order, submitted to the official who issued the notice, under this section must include:
 - (1) A proposed order;
 - (2) An admission of all jurisdictional facts;
 - (3) An express waiver of the right to further procedural steps and of all rights to judicial review; and
 - (4) An incur proration by reference of the notice and an acknowledgement that the notice may be used to construe the terms of the order.
- (c) If the issuance of a consent order has been agreed upon after the filing of a request for hearing, the proposal for a consent order shall include a request to be filed for withdrawing the hearing and requesting that the case be dismissed.