



Public Authority for Civil Aviation

CAR 12

Civil Aviation Regulation

Enforcement Procedures

Effective: 31st October 2019

Approved by: HE Dr. Mohamed bin Nasser Al-Zaabi (CEO)

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Glossary of Terms or Abbreviations

The following terms or acronyms may be used in any manual or document published by PACA. Reproduction in part or whole is allowed without prior approval. The Document Control Office reserves the rights to include such a listing in any PACA manual or document prior to publishing.

AIN	Aviation Infringement Notice
AMC	Acceptable Means of Compliance
CAR	Civil Aviation Regulation
CASI	Civil Aviation Safety Inspector
GM	Guidance Material
IATA	International Air Transport Association
ICAO	International Civil Aviation Organisation
Minister	Minister of Transport and Communications
MOR	Mandatory Occurrence Report
OTSD	Oman Transport Safety Department
PACA	Public Authority for Civil Aviation
PL	Policy Lead
VRS	Voluntary Reporting Scheme

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FOREWORD

- (a) The Civil Aviation Requirements for Civil Aviation Regulation Enforcement Procedures have been issued by the Public Authority for Civil Aviation of Oman (hereinafter referred as PACA) under the provisions of the Civil Aviation Law of the Sultanate of Oman.
- (b) The enforcement procedures have been prepared against the enforcement policy and prescribe the application of enforcement of the aviation regulations promulgated within the Sultanate of Oman.
- (c) CAR-12 prescribes the requirements for:
 - (1) The enforcement of the requirements stipulated within the Omani CARs; and
 - (2) Actions which constitute non-compliance with regulations (contraventions), but are not subject to enforcement action as the permission holder submitted a voluntary safety report.
- (d) Amendments to the text in CAR-12 in revised editions are issued as a complete amendment of pages contained within.
- (e) The editing practices used in this document are as follows:
 - (1) 'Shall' is used to indicate a mandatory requirement and may appear in CARs.
 - (2) 'Should' is used to indicate a recommendation
 - (3) 'May' is used to indicate discretion by the Authority, or the industry as appropriate.
 - (4) 'Will' indicates a mandatory requirement and is used to advise of action incumbent on the Authority.

*****Note: The use of the male gender implies the female gender and vice versa.***

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SUBPART A - GENERAL

CAR 12.001 Applicability

CAR-12 prescribes the requirements for:

- (a) The application of enforcement penalties and fines applicable to the CARs;
- (b) The procedures to be followed in the event that the regulator either recognises, suspects or when there is a potential breach of one or more of the civil aviation rules and regulations.

CAR 12.005 Terminology & Definitions

Authorisation Holder: means a person or entity authorised by the Authority to engage in a licensed aviation activity in accordance with the Civil Aviation Law and Civil Aviation Regulations.

Authority: means the Public Authority for Civil Aviation of the Sultanate of Oman which is enacted by Royal Decree and authorised under the Civil Aviation Law to administer the requirements of the Chicago Convention of 1944 on behalf of the Sultanate of Oman.

Contravention: means the incident has resulted from actions outside the boundaries of compliance regulations promulgated the by Sultanate of Oman.

Detection: means the discovery of a possible contravention. It may result from activities such as inspections, surveillance programmes, ATS monitoring of aircraft movements, regulatory audits, accident investigations, complaints from the public or police reports.

Director General: means the Director General of Civil Aviation Regulation.

Director of Legal Affairs: means the person designated by the Board of the Public Authority for Civil Aviation to oversee legal affairs on behalf of the Authority.

Enforcement Action: Administrative action includes, but is not limited to, suspension, amendment or cancellation of a licence, certificate, permit, or privilege or any other document issued by the Authority. The Authority may also ground or detain aircraft and deny take-off clearance to a departing aircraft.

The Authority may also revoke any approval to a Post holder or refuse to accept management positions.

Executive Director: means the person for the time being holding, occupying or performing the duties of the position of Executive Director of the Oman Transport Safety Board referred to in CAR-13, Aircraft Accident and Incident Investigation.

Inspectorate: means a Department within the Authority located within the Directorate General for Civil Aviation Regulation, which carries out oversight activities pursuant to the Civil Aviation Law and Civil Aviation Regulations as required pursuant to the Chicago Convention of 1944.

Mandatory Occurrence Reporting scheme or MORs means established under sub-regulation CAR-13.400 for the reporting of mandatory occurrences that may or will affect the safe operation of aircraft or equipment.

Voluntary Reporting Scheme or ***VRS*** means the voluntary reporting scheme established under sub-regulation CAR-13.400 for reporting safety incidents.

SUBPART B – ENFORCEMENT PROCEDURES

CAR 12.100 Enforcement Procedures

The enforcement procedures will be applied by the Authority when it has been recognised, suspected or a potential breach of civil aviation rules and regulations by the Authority that one or more of the provisions contained within the Civil Aviation Regulations has been contravened by either an authorisation holder or a non-authorisation holder (i.e. a member of the public).

CAR 12.105 Enforcement Actions

The Authority may pursue one or more enforcement actions upon recognising or identifying a contravention. The following is a list of enforcement actions in degree of severity which the Authority may pursue in the event of a contravention:

- (a) **Verbal warning.** The Director of Legal Affairs or a designated inspector acting on his behalf may verbally caution an individual or a designated person within an entity regarding a contravention. Such verbal warnings must accurately state the contravention, provide a legal basis for the contravention, and inform the cautioned party regarding which further enforcement actions are available to the Authority in the event of further non-compliance.
- (b) **Formal written warning.** The Director of Legal Affairs or a designated inspector acting on his behalf may issue a written notice to an individual or a designated person within an entity stating that the Authority believes that a contravention has occurred. Such written warnings must accurately state the contravention, provide a legal basis for the contravention, and inform the cautioned party regarding which further enforcement actions are available to the Authority in the event of further non-compliance.
- (c) **Imprisonment and Monetary fine.** Under the provisions of Articles 131 and 135 of the Civil Aviation Law (2004), imprisonment and monetary fines may be levied for non-compliance against the qualified provisions stated within those Articles. A fine shall be levied via the serving of an aviation infringement notice (AIN) up to the maximum amount stated in the enforcement provision of the applicable Article. Non-payment of fines may be pursued through the appropriate court, with the cost of court action to be borne by the party receiving the AIN.
- (d) **Variation of authorisation.** The Authority may determine that the contravention warrants the restriction of the person or entity from engaging in certain types of activity previously granted in the authorisation. If the Authority chooses to issue a variation, the notice to the person or entity must specify if the variation is temporary or not, and if so, the expiry of the variation. In addition, the notice must specify the factual basis for why the variation is appropriate.
- (e) **Suspension of authorisation.** The Authority may determine that the contravention warrants the suspension of the authorisation. If the Authority chooses to issue a suspension, the notice to the person or entity must specify the period of time for which the suspension will be effective as well as the factual basis for why the suspension is appropriate.

- (f) **Revocation of authorisation.** The Authority may determine that the contravention warrants the revocation of the authorisation. If the Authority chooses to issue a revocation, the notice to the person or entity must specify the factual basis for why the variation is appropriate.
- (g) **Referral to Public Prosecution of Sultanate of Oman.** If the Authority determines that there is a likelihood that a criminal offence has been committed, the Authority may refer the case to the Public Prosecution Office. If the Authority chooses to refer the case, then the normal criminal procedures for courts in the Sultanate of Oman shall apply.

**** Actions (d) to (f) only apply to authorisation holders whilst actions (a) to (g) apply to both authorisation holders and non-authorisation holders (i.e. a member of the public).**

CAR 12.110 Designated Person for Enforcement Actions

- (a) The designated body with the accountability for detection the need and initiation of the enforcement actions shall be the Director General.
- (b) In accordance with Articles (4) and (10) of the Civil Aviation Law (2004) the Authority shall/will nominate designated CASI's, for each area of civil aviation safety oversight with the required powers enabling them to initiate enforcement actions for contraventions reported or detected during their oversight activities.
- (c) The designated person with accountability for pursuing and recording enforcement actions shall be the Director of Legal Affairs.
- (d) The Director of Legal Affairs shall ensure that an accurate register of all contraventions is maintained by the Authority. Such register shall include contraventions where enforcement action is pursued as well as contraventions where enforcement action is not pursued.

CAR 12.115 Reserved

CAR 12.120 Enforcement Procedures

- (a) When a PACA Inspector is apprised of, or observes a contravention, they will complete a Detection Notice form and forward it without delay to the appropriate Supervisor for decision. Even when the matter does not normally require further action, as in an oral counselling, the Detection Notice provides PACA with an indication of a contravention and of Inspector activity. The information will also be used to compile statistics and will provide an indication of alleged offences or transgressions.
- (b) Upon recognising or identifying that one or more of the provisions contained within the Civil Aviation Regulations has been contravened, DGCAR shall coordinate with the Director of Legal Affairs to determine if an enforcement action shall be pursued, and if so, which enforcement action shall be pursued.

- (c) The Director of Legal Affairs may designate a member of the inspectorate to pursue enforcement actions without his direct involvement, however, the Director of Legal Affairs must ensure that all contraventions are recorded in the register established pursuant to CAR 12.110 (d) above.
- (d) In determining which enforcement action to pursue, the Director of Legal Affairs and/or the member of the inspectorate designated by him pursuant to paragraph (c) above shall apply the following criteria:
 - (1) Prior contraventions of the same nature as the contravention at issue shall constitute an aggravating factor requiring more severe enforcement action;
 - (2) Wilful, deliberate or highly reckless conduct shall constitute an aggravating factor requiring more severe enforcement action;
 - (3) Prior contraventions of a different nature may constitute an aggravating factor requiring more severe action;
 - (4) A contravention which poses a direct and demonstrable threat to safety shall constitute an aggravating factor requiring more severe action;
 - (5) A contravention which was made in order to avoid a direct and demonstrable threat to safety may constitute a mitigating factor permitting less severe enforcement action;

CAR 12.125 Right of Appeal and Appeals Procedure

- (a) Subject to the exception in paragraph (f) below, any person or entity may appeal an enforcement action which has been taken against them.
- (b) In order to appeal an enforcement action, the person or entity must submit a Notice of Appeal to the High Court, which must be received within 30 days of the date of the enforcement action.
- (c) If the enforcement action taken by the Authority is a verbal or written warning, the appeal shall be limited to determining whether or not a contravention occurred.
- (d) If the enforcement action taken by the Authority is a restriction or variation of authorisation, suspension of authorisation, or revocation of authorisation, then the appeal shall determine whether or not a contravention occurred, and if so, whether the action taken by the Authority is appropriate.
- (e) If the enforcement action is a referral for public prosecution, the criminal prosecution shall serve to determine whether criminal penalties are appropriate. If the accused is found not guilty, the accused may file an appeal with the High Court to determine whether or not a contravention occurred.
- (f) If an enforcement action results in a criminal conviction, the accused may not file an appeal in accordance with subsection (e) unless the criminal conviction is vacated.

- (g) If the High Court finds that no contravention occurred, then the register of contraventions established pursuant to CAR-12.110 (d) must be updated accordingly.

SUBPART C – VOLUNTARY REPORTS EXEMPT FROM ENFORCEMENT ACTION

CAR 12.200 Establishment and purposes of scheme

- (a) There is established a scheme pursuant to regulation CAR-13.400 (known as the ***Voluntary Reporting Scheme***) for the voluntary reporting of contraventions and other safety incidents.
- (b) The scheme is to be administered by the Executive Director of the Oman Transport Safety Department.
- (c) The purposes of the scheme are:
 - (1) to enable holders of civil aviation authorisations to voluntarily submit reportable contraventions without enforcement action being taken against them; and
 - (2) to strengthen the foundation of aviation human factors safety research; and
 - (3) to identify deficiencies and problems in the Oman aviation safety system; and
 - (4) to provide data for planning and improvements to the Oman aviation safety system.

CAR 12.205 Qualified reports pursuant to Voluntary Reporting Scheme

- (a) An authorised permission holder shall not be subject to enforcement action for contravention of regulations if such permission holder makes a voluntary safety report of such contravention in accordance with the scheme established pursuant to sub-regulation CAR 13.400 and referenced in section CAR 12.105 above unless the provisions of paragraph (b) below apply to the contravention.
- (b) Reports of the following types of contraventions shall not constitute qualified reports pursuant to section (a) above:
 - i. a contravention that is deliberate;
 - ii. a contravention that is fraudulent;
 - iii. a contravention that causes or contributes to an accident or to a serious incident (whether before or after the contravention is reported); and
 - iv. a contravention of a regulation prescribed under sub-regulation CAR 13.400 (Mandatory Occurrence Reporting system – MORs).
- (c) The Executive Director will determine in accordance with the procedures outlines for the Voluntary Reporting Scheme whether a report constitutes a qualified report in accordance with paragraph (a) above.
- (d) Notwithstanding the provisions of this section, the Authority reserves the right to take non-punitive action in the interest of safety based upon information submitted in a qualified report. Such action shall not constitute enforcement action.

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SUBPART D – ENFORCEMENT PROCEDURES**CAR 12.300 Enforcement procedures**

The enforcement procedures will be applied by the Authority when there has been a recognised, suspected or potential breach of civil aviation rules and regulations applicable to an issued civil aviation authorisation which have been knowingly or by deliberate actions contravened the compliance standards required of the authorisation issued.

This enforcement will be administered using Articles (131) and (135) of the Civil Aviation Law (2004), whereby a fine up to the maximum amount stated within the applicable Article may be levied against the non-compliance;

CAR 12.305 Reserved**CAR 12.310 Classes of civil aviation authorisations**

For the enforcement purposes of Articles (131) and (135) of the Civil Aviation Law (2004), a civil aviation authorisation mentioned in column (2) of an item in Table 12.310 belongs to the class of civil aviation authorisation mentioned in column (3) of the item.

Table 12.310 Classes of Civil Aviation Authorisations

Column 1 Item	Column 2 Particular civil aviation authorisations	Column 3 Class of civil aviation authorisation
1	a certificate issued under Article 70 of the Civil Aviation Law (2004)	Air operator certificate (AOC)
2	a certificate issued under CAR-47 and Article 35 of the Civil Aviation Law (2004)	Certificate of registration
3	a certificate issued under CAR-64 or Article 29 of the Civil Aviation Law (2018)	Certificate of approval for non-licensed personnel
4	an aircraft engineer licence issued under CAR-66 of Oman	Authorisation to perform maintenance certification and issue certificate of release to service
4A	an authority mentioned inside CAR-33 of Oman	Maintenance authority
5	a licence referred to in CAR FCL-1 of Oman	Flight radiotelephone licence
6	a licence referred to in Article 29 of the Civil Aviation Law (2004) & CAR FCL-1	Pilot licence
7	a flight engineer licence under CAR-FCL 4 of Oman	Flight engineer licence
8	a certificate issued under CAR-FCL 3 of Oman	Medical certificate
9	a licence referred to in Article 31 of the Civil Aviation Law (2004) or authorisation issued under CAR-FCL 1 of Oman	Air traffic control licence
10	a certificate issued under CAR-102 of Oman	Remote Pilot Authorisation (RPA) certificate
11	(a) a certificate issued under CAR-139 (b) a registration granted under CAR-139	Aerodrome certificate
12	an approval granted under CAR-139 Subpart H	ARFFS approval
12A	an approval granted under regulation CAR FCL-1	Flying training authorisation
12B	a certificate issued under regulation CAR FCL-1	Flying training authorisation
13	an approval granted under CAR-172 of Oman	ATS approval
14	an approval granted under CAR-171 of Oman	Aeronautical telecommunication and radionavigation provider approval
15	a certificate or authorisation issued under CAR-173 of Oman	Instrument flight procedure approval

CAR 12.315 Effect of subsequent suspension or cancellation in certain situations

If, in the event of:

- (a) A civil aviation authorisation is cancelled (the *earlier cancellation*); and
- (b) If there had been no earlier cancellation, a subsequent suspension or cancellation under Articles 131 and 135 of the Civil Aviation Law (2004) would have had effect in relation to the authorisation; and
- (c) The earlier cancellation is later set aside by the High Court; the subsequent suspension or cancellation has effect, in relation to the civil aviation authorisation, on the day immediately following the day when the High Court set aside the earlier cancellation.

CAR 12.320 Reserved**CAR 12.325 Reserved****CAR 12.330 Reserved****CAR 12.335 Reinstatement of authorisations**

In the event a holder has been served an Authorisation Cancellation Notice, the holder can apply to the Authority to have that authorisation re-instated. In such cases an authorisation may be re-instated if, and only if, the Authority is satisfied with the evidence provided by the holder, that the suspension or cancellation would cause severe financial hardship, because without the authorisation the holder would not be able to earn the holder's principal or only income.

When a decision to re-instate has been taken, the Authority may impose such conditions on the authorisation granted, as they consider appropriate in the circumstances. Conditions to be considered would include:

- (a) A limitation on the type of flying to be permitted;
- (b) A limitation on the hours to be flown;
- (c) A limitation on the period during which flying can be conducted;
- (d) Implementations of additional system checks; or
- (e) A change in the accountable personnel responsible for the oversight of the authorisation granted.

Before imposing any conditions, the Authority's delegate will discuss the conditions with the Director of Legal Affairs.