CHAPTER 3

GENERAL

3.1 COMPLIANCE WITH LAWS, REGULATIONS AND PROCEDURES

3.1.1 An operator shall ensure that all employees when abroad know that they must comply with the laws, regulations and procedures of those States under which operations are conducted.

3.1.2 An operator shall ensure that all pilots are familiar with the laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes to be used and the air navigation facilities relating thereto. The operator shall ensure that other members of the flight crew are familiar with such of these laws, regulations and procedures as are pertinent to the performance of their respective duties in the operation of the aeroplane.

3.1.3 An operator or a designated representative shall have responsibility for operational control.

3.1.4 Responsibility for operational control shall be delegated only to the pilot-in-command and to a flight operations officer/flight dispatcher if an operator’s approved method of control and supervision of flight operations requires the use of flight operations officer/flight dispatcher personnel.

Note.- Guidance on the operational control organization and the role of the flight operations officer/flight dispatcher is contained in the Manual of Procedures for Operations Inspection, Certification and Continued Surveillance (Doc 8335). Detailed guidance on the authorization, duties and responsibilities of the flight operations officer/flight dispatcher is contained in the Preparation of an Operations Manual (Doc 9376). The requirements for age, skill, knowledge and experience for licensed flight operations officers/flight dispatchers are contained in the Personnel Licensing Requirements (PELR).

3.1.5 An operator shall ensure that if an emergency situation which endangers the safety of the aeroplane or persons becomes known first to the flight operations officer/flight dispatcher, action by that person shall include, where necessary, notification to the appropriate authorities of the nature of the situation without delay, and requests for assistance if required.

3.1.6 An operator shall ensure that if an emergency situation which endangers the safety of the aeroplane or persons necessitates the taking of action which involves a violation of local regulations or procedures, the pilot-in-command
shall notify the appropriate local authority without delay. If required by the State in which the incident occurs, the pilot-in-command shall submit a report on any such violation to the appropriate authority of such State; in that event, the pilot-in-command shall also submit a copy of it to the State of the Operator. Such reports shall be submitted as soon as possible and normally within ten days.

3.1.7 An operator shall ensure that pilots-in-command have available on board the aeroplane all the essential information concerning the search and rescue services in the area over which the aeroplane will be flown.

3.1.8 An operator shall ensure that flight crew members demonstrate the ability to speak and understand the English language used for radiotelephony communications as specified by Annex 1.

3.2 COMPLIANCE BY A FOREIGN OPERATOR WITH LAWS, REGULATIONS AND PROCEDURES OF NEPAL

3.2.1 When CAAN identifies a case of non-compliance or suspected non-compliance by a foreign operator with laws, regulations and procedures applicable within the territory of Nepal or a similar serious safety issue with that operator, CAAN shall immediately notify the operator and, if the issue warrants it, the State of the Operator. Where the State of the Operator and the State of Registry are different, such notifications shall be also be made to the State of Registry, if the issue falls within the responsibilities of that State and warrants a notification.

3.2.2 In the case of notification to States as specified in 3.2.1, if the issue and its resolution warrant it, CAAN shall engage in consultations with the State of the Operator and the State of Registry, as applicable, concerning the safety standards maintained by the operator.

*Note.* - *The Manual of Procedures for Operations Inspection, Certification and Continued Surveillance (DOC 8335) provides guidance on the surveillance of operations by foreign operators. The manual also contains guidance on the consultations and related activities as specified in 3.2.2, including the ICAO model clause on aviation safety, which, if included in a bilateral or multilateral agreement, provides for consultations among States, when safety issues are identified by any of the parties to a bilateral or multilateral agreement on air services.*

3.3 SAFETY MANAGEMENT

3.3.1 Director General of Civil Aviation Authority of Nepal will establish a safety programme in order to achieve an acceptable level of safety in the operation of aircrafts.

*Note.* - *A framework for the implementation and maintenance of a State Safety Programme is contained in Attachment J, Annex 6, Part I and guidance on a State Safety Programme is contained in the Safety Management Manual (SMM) (DOC 9859).*
3.3.2 Director General Civil Aviation Authority of Nepal will ascertain the acceptable level of safety to be achieved by an operator.

*Note.*—*Guidance on defining an acceptable level of safety is contained in the Safety Management Manual (SMM) (DOC 9859).*

3.3.3 Director General shall require as a part of the safety programme of CAA, Nepal that an operator implements a Safety Management System (SMS) in accordance with the provisions of APPENDIX 7 acceptable to Director General that, as a minimum:

a) identifies safety hazards;

b) ensures the implementation of remedial action necessary to maintain agreed safety performance;

c) provides for continuous monitoring and regular assessment of the safety performance; and

d) aims at a continuous improvement of the overall performance of the safety management system.

*Note.*—*Guidance on defining safety performance is contained in the Safety Management Manual (SMM) (DOC 9859).*

3.3.4 A Safety Management System shall clearly define lines of safety accountability throughout the operator’s organization, including a direct accountability for safety on the part of senior management.

*Note.*—*The framework for the implementation and maintenance of a Safety Management System is contained in Appendix 7, Annex 6, Part I. Guidance on Safety Management Systems is contained in the Safety Management Manual (SMM) (DOC 9859).*

3.3.5 RESERVED

3.3.6 An operator of an aeroplane of a maximum certificated take-off mass in excess of 27 000 kg shall establish and maintain a Flight Data Analysis Programme as part of its Safety Management System.

*Note.*—*An operator may contract the operation of a Flight Data Analysis Programme to another party while retaining over-all responsibility for the maintenance of such a programme.*

3.3.7 A Flight Data Analysis Programme shall be non-punitive and contain adequate safeguards to protect the source(s) of the data.

*Note 1.*—*Guidance on defining safety performance is contained in the Safety Management Manual (SMM) (DOC 9859).*
Note 2.- Legal guidance for the protection of information from safety data collection and processing systems is contained in Annex 13, Attachment E.

3.3.8 An operator shall establish a Flight Safety Documents System, for the use and guidance of operational personnel, as part of its Safety Management System.

Note.- Guidance on the development and organization of a Flight Safety Documents System is provided in Attachment G of Annex 6 Part I.

3.4 DANGEROUS GOODS

3.4.1 Refer to CAAN document DANGEROUS GOODS HANDLING REQUIREMENTS 2009 and its amendments for the requirements on the safe transport of dangerous goods by air.

Note 1.— Provisions for carriage of dangerous goods are contained in Annex 18.

Note 2.— Article 35 of the Convention refers to certain classes of cargo restrictions.

3.5 USE OF PSYCHOACTIVE SUBSTANCES

3.5.1 Holders of licenses provided for in this FOR as well as PELR shall not exercise the privileges of their licenses and related ratings while under the influence of any psychoactive substance which might render them unable to safely and properly exercise these privileges.

3.5.2 Holders of licenses provided for in this FOR as well as PELR shall not engage in any problematic use of substances.

3.5.3 CAAN shall ensure, as far as practicable, that all license holders who engage in any kind of problematic use of substances are identified and removed from their safety-critical functions.

3.5.4 No person whose function is critical to the safety of aviation (safety-sensitive personnel) shall undertake that function while under the influence of any psychoactive substance, be reason of which human performance is impaired. No such person shall engage in any kind of problematic use of substances.

Note.- Guidance on suitable methods of identification (which may include biochemical testing on such occasions as pre-employment, upon reasonable suspicion, after accidents/incidents, at intervals, and at random) and on other prevention topic is contained in the Manual on Prevention of Problematic Use of Substances in the Aviation Workplace (DOC 9654).

3.6 RESERVED
3.7  INSPECTION AUTHORITY

3.7.1  Each certificate holder shall allow the inspectors of Director General in their respective fields at any time or place to make an inspection or test to determine its compliance with the civil air regulation, its operating certificate and its operations specifications or its eligibility to continue to hold its certificate.

3.7.2  Any person appointed by Director General as an authorized officer or inspector shall be permitted at any time to board and to enter and remain on the flight deck, provided that the commander of the Aeroplane, during in flight phase, may refuse to allow the authorized officer to enter or remain in the flight deck if in his opinion, the safety of the Aeroplane would thereby be endangered.

3.7.3  All authorized officers of CAAN for liaison and inspection carry a CAAN identity document, which will be produced on request. Request for arrangements of tickets on free passage and other required facilities to help to complete the task of inspection, will normally be made in advance. Except in case of the random surveillance inspection on base, while preparing the flight and in-flight, notification will not be made in advance.

3.7.4  Authorized Inspector(s) shall visit to observe the conduct of ground classes, demonstration classes etc of an operator and Flight Operation Inspectors shall observe the ground and training flights of pilots, competency checks, type rating ground and flight tests and instrument issuance and/or renewal tests. They are also empowered to inspect flight crew licenses and records of trainings and tests.

3.7.5  All matters relating to pilots that require an Observer shall be conducted by CAAN Flight Operations Inspectors or pilots.

3.7.6  The holder of an Air Operator certificate shall notify to the Director General of Civil Aviation of Nepal, not less than 14 days notice in writing of the intended abolition of any of its responsible posts or of any intended change in the person holding the post or his duties.

3.7.7  Any person authorized by the Director General of Civil Aviation in that regard shall have access to any premises in the occupation or control of the holder of this Certificate for the purpose of examining the premises and any document, equipment, tools, material or other thing of whatsoever nature, relating to the operation of Aeroplane there under kept or used or intended to be used in connection with the operation of the Aeroplane.

3.7.8  Every flight under this certificate shall be conducted in accordance with the relevant provisions of the aforesaid operations manual and instructions.

3.8  OFFENCE AND PENALTY

3.8.1  Any person who:

a) contravenes or fails to comply with any provision of this Requirement.
b) performs any duty or exercises or any functions for which a license or rating is required under this Flight Operation Requirements.

c) makes a false or deceptive statement or in connection with any application for a license rating or certificate issued under Flight Operations Requirement.

d) Makes, procures or assists in the making or procuring of any false or deceptive entry in any document book or record made or kept under any rules made under Flight Operation Requirements.

e) Destroys, mutilates or alters any document book or record made or kept under any rules made under Flight Operation Requirements.

f) obstructs or hinders an investigation carried;

g) obstructs or impedes any authorized person acting in the performance or exercise of any duties powers of functions conferred on him by this Requirements.

h) does or attempts to do anything likely to imperil the safety of an Aeroplane or its passengers or crew shall be guilty of an offence and shall be liable on conviction to any of

a) a warning

b) a temporary suspension to perform his duty

c) suspension or revocation of license (or including suspension and cancellation of an authorization, permission, ratings or other endorsements)

d) a fine and/or possible imprisonment as applicable.

3.8.2 The Owner, Operator, Hirer or a Pilot-In-Command of an Aeroplane which flies in contravention of any rules made under Flight Operations Requirement, shall be guilty of an offence and shall be liable on conviction to any of a warning, suspension or revocation of license, a fine and possible imprisonment as applicable, unless it is proved that the alleged contravention took place without that person in actual fault.

3.9 OPERATORS TO PROVIDE FLIGHT INSTRUCTORS AND GROUND INSTRUCTORS

3.9.1 The holder of an Air Operator Certificate issued by the Director General who is engaged in commercial operations shall ensure that sufficient number of Flight Instructors and instructor for ground courses who are qualified with not less than that mentioned in FOR/PELR.

3.9.2 The Privileges of Instructor Pilot shall be to carry out the tests/checks/trainings as mentioned below:

i) Training of Pilots for aircraft type, Instrument Rating and Instructor
Rating

ii) Pilot Proficiency check for renewal (when the company does not have a Designated Check Pilot)

iii) Pilot Proficiency check for Renewal of Instrument Rating (when the company does not have a Designated Check Pilot)

iv) Conducting Line/STOL Clearances

v) Route checks

3.10 OPERATORS TO PROVIDE OPERATIONS DIRECTORS

The holder of an Air Operator Certificate issued by the Director General who is engaged in commercial operations shall assign a pilot (or experienced as a pilot) as an Operations Director in the Operation Department.

3.11 RESERVED

3.12 OPERATORS TO ENSURE THAT FLIGHT CREW ARE QUALIFIED

3.12.1 The holder of an Air Operator Certificate issued by the Director General shall not permit an aircraft to fly unless:

a) The number and composition of the flight crew are not less than the minimum specified in the Operations Manual or as approved by the CAAN for that aircraft and the route to be flown; or the number of crew;

b) A pilot in the flight crew is designated as pilot-in-command for that flight;

c) All members of the flight crew are properly qualified as mentioned in this Flight Operations Requirements and medically fit to carry out their duties.

3.12.2 Such an operator shall not permit an aircraft to fly for other than training purposes unless:

a) Each member of the flight crew holds a valid license appropriate to his duties;

b) Each member has demonstrated his competence to perform those duties by successfully completing the training program required under this directive; and

c) Each member of the flight crew is in regular and full time employment of the holder or has been authorized by the Director General to make the flight.

3.12.3 Crew member requirements and their qualifications shall not be less than that as specified in the FOR.

3.12.4 Flight crewmember emergency duties

An operator shall, for each type of aeroplane, assign to all flight crew member the necessary functions they are to perform in an emergency or in a situation requiring
in the operator’s training program and shall include instruction in the use of all emergency and life saving equipment required to be carried and drills in the emergency evacuation of the aeroplane.

3.13 *RESERVED*

3.14 **OPERATORS TO ENSURE NON-MISUSE OF FLIGHT CREW IDENTITY**

3.14.1 An Operator shall make the necessary provisions in company Operations Manual and any other regulation to ensure that the identities of Flight Crew are not misused. *refer Chapter 13 Security.*