

Advisory Circular
[AC/AD-09]

**Procedure for acceptance of non-compliance
and grant exemption for aerodromes**

Second Edition
March 2022

CIVIL AVIATION AUTHORITY OF NEPAL

RECORD OF AMENDMENTS

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FOREWORD

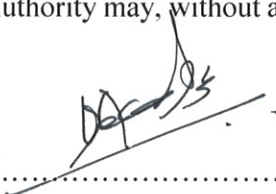
Nepal as a Contracting State to the Convention on International Civil Aviation has an obligation to the international community to ensure that civil aviation activities under its jurisdiction are carried out in strict compliance with the Standards and Recommended Practices contained in the nineteen Annexes to the Convention on International Civil Aviation in order to maintain the required aviation standards.

It is expected that the applicant of an Aerodrome Certificate will be benefited from this Advisory Circular as it explains the procedures for acceptance of non-compliance and grant exemption for aerodromes that do not conform to all SARPs contained in CAR 14, Part I during the aerodrome certification process.

When non-compliances are present, the effect on safety needs to be analyzed, and measures and/or limitations on its use to mitigate any non-compliance have to be established. The harmonization of this aspect of the certification process is therefore important for ensuring safety. Safety risk assessment should be conducted by the aerodrome operator before the acceptance and grant an exemption for non-compliance by Aerodrome Safety Standards Department (ASSD).

Users of this Advisory Circular are requested that the provisions of the *Civil Aviation Authority Act - 1996 (2053 B.S.)*, *CAAN Airport Certificate Regulations - 2004 (First Amendment - 2016)* and *Civil Aviation Regulation 2002, (Third Amendment 2017)* rather than this Advisory Circular, determine the requirements of, and the obligations imposed by or under, the civil aviation legislation. Users should refer to the applicable provisions when any doubt arises.

This Authority may, without any prior notice, change the content of this Advisory Circular as appropriate.



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Director General

Civil Aviation Authority of Nepal
Babarmahal, Kathmandu, Nepal

March, 2022

1. Introduction

- 1.1 An Aerodrome certificate holder is expected to comply with the Airport Certificate Regulation (ACR) 2004 (First amendment 2016) as well as the Standards and Recommended Practices of CAR- 14, Part 1 Aerodrome Design and Operations, Civil Aviation Requirements for Safety Management (CAR-19) and the procedures in ICAO PANS-Aerodrome (Doc 9981).
- 1.2 There may be some circumstances where requirements may not be practically possible to comply at an existing aerodrome due to physical constraints, infrastructure development, changes to requirements, temporary accommodation of aircraft larger than the aerodrome design aircraft, etc. Similarly, in some cases, compliance may not be possible even for a new aerodrome due to physical constraints, technical or economic difficulties.
- 1.3 At existing aerodromes where full compliance with standards cannot be achieved, alternative measures will be required to achieve an equivalent level of safety performance. The aerodrome regulators and operators need to follow the specified procedures to be applied to both initial aerodrome certification and continuous aerodrome safety oversight, as well as aerodrome compatibility studies where full compliance with the SARPs in CAR 14, Part 1, cannot be achieved.

2. Purpose

The purpose of the procedure is to harmonize the acceptance of non-compliance and grant exemption for aerodromes that do not conform to all SARPs contained in CAR 14, Part 1 during the aerodrome certification process.

When non-compliances are present, the effect on safety needs to be analyzed, and measures and/or limitations on its use to mitigate any non-compliance have to be established. The harmonization of this aspect of the certification process is therefore important for ensuring safety. Safety risk assessment should be conducted by the aerodrome operator before the acceptance and grant an exemption for non-compliance by Aerodrome Safety Standards Department (ASSD).

3. Non-Compliances

Non-compliances are usually found in infrastructural elements and in operational elements. The infrastructural elements concerned include aeronautical data, obstacle limitation surfaces, visual and non-visual aids, electrical power supply systems for air navigation services, and physical characteristics (such as runway/taxiway/apron design, Runway End Safety Area [RESA], runway strip, fencing, etc.). Similarly, operational elements concerned include aerodrome emergency planning, aerodrome maintenance, rescue and firefighting, low visibility operations, etc. A number of non-compliances exist because of the lack of standardized procedures for the systematic recording of deviations from the design and operating requirements.

Some common non-compliant elements to the SARPs of CAR 14 Part 1 at medium and large aerodromes are runway strips, RESA, the separation between the runway and parallel taxiways, approach surface, and mandatory instruction signs. There may be further non-compliances in relation to aerodrome maintenance, aerodrome emergency planning, electrical power supply system, aeronautical data specifications, and obstacle limitation surfaces. Aerodrome operators

sometimes are not aware of possible infringements of the obstacle limitation surfaces as per SARPs of CAR 14 Part 1. The main reasons are the lack of well-defined responsibility for the assessment of obstacles and the relative complexity of the task.

4. Categories of Exemptions

Exemptions for non-compliance shall be:

Temporary Exemptions: where non-compliance is expected to be removed and interoperability is the predominant aspect of the requirement, such as mandatory signs, availability of runway strip, etc.

Permanent Exemptions: where non-compliance is not reasonably, be removed and interoperability is not the predominant aspect of the requirement, such as the infringement of high ground into an obstacle limitation surface, etc.

5. Procedure for Seeking Exemptions

- 5.1 The aerodrome certificate holder shall submit a separate application for each non-compliance in the prescribed format for seeking exemption (Appendix I).
- 5.2 The application for exemption shall be supported with the reasons for non-compliance, safety assessment reports, means of mitigation, and an indication as to when compliance can be expected.
- 5.3 An application for a standard exemption includes:
 - 5.3.1 The applicant's name and address. Name of aerodrome where exemption is being sought. (Aerodrome certificate number to be quoted if already issued)
 - 5.3.2 The relevant provisions of Civil Aviation Requirements for which the exemption is sought.
 - 5.3.3 In case of exemption sort for non-compliance with the SARPs of CAR 14 Part 1, then the aerodrome operator should include a safety assessment report prepared in accordance with the Advisory Circular (AC) – 13.
 - 5.3.4 whether the exemption will affect a particular kind of operation, the details thereof.
- the category under which exemption is sought (temporary/ permanent) and justifiable reasons why the applicant needs the exemption. The reasons provided should be detailed and self-explanatory.
- the period for which the exemption is required.
- The action plan, the short term, and long term, for rectification and review of non-compliance for temporary exemption, including the mitigation measures adopted for ensuring safety during the exemption period.

- In case of permanent exemption is sought, the applicant has to indicate the mitigation measures adopted to reduce the risk arising due to non-compliance after carrying out a safety assessment in accordance with the Advisory Circular AC – 13.
- undertaking by the certificate holder that he shall annually review the conditions or mitigation measures and any other resultant non-compliance in particular when any significant changes in the activity or aerodrome development are proposed

- 5.4 The applicant should provide adequate information in the prescribed format for consideration for granting exemptions with supporting documents. Failure to provide adequate information may delay the processing/refusal of the application.
- 5.5 The DG CAAN after examining the applications for exemptions may exempt, in writing, an aerodrome operator from complying with specific provisions of the CAR 14 Part 1 and may impose conditions for such exemptions to ensure the safety of aircraft operation.
- 5.6 On approval of the exemption, it shall be included in the aerodrome manual and in AIP.
- 5.7 On the resolution of the exemption the certificate holder shall notify the same to the DG CAAN and after approval of DG CAAN, the same shall be deleted from the Aerodrome manual and AIP.
- 5.8 The exemption granted shall be reviewed during the renewal of the aerodrome certificate.

6. Procedure for Accepting Non-Compliances

- 6.1 One of the aims of certification of aerodrome process is to ensure compliance with SARPs of CAR 14 Part 1 and rules of ACR 2004. Ensuring compliance with the requirements for aerodrome design, organizational factors, operations, and approved procedures, programs, and plans is a key element of maintaining an acceptable level of safety at an aerodrome. The goal is to require the non-compliances to be corrected and to deal with the situations where correction is not possible, either due to physical constraints such as terrain, etc.
- 6.2 The managing of non-compliances/deviations, generally jointly by ASSD, CAAN, and the aerodrome operator, has the following major considerations:
 - Affected parameters (Standards or Recommended Practices);
 - Extent and duration of deviation;
 - Traffic density of the aerodrome;
 - Whether an effective SMS is in place in the aerodromes;
 - Safety culture at aerodromes and within CAAN; and
 - Capability for evaluating the impact of deviations e.g. safety risk assessments.
- 6.3 In considering an application for exemption from SARPs of CAR 14 Part, ASSD CAAN needs to consider aviation safety as the paramount consideration. Keeping this in mind, ASSD,

CAAN may ask the applicant to provide further information, a copy of specific documents, and undertake a test or tests of competence.

- 6.4 Operational restrictions are the most frequent mitigation measures for non-compliance. Safety risk assessments are mostly conducted to analyze the impact on safety. In aerodromes with less traffic throughput, non-compliances may be accepted with a simplified procedure. The same simplified procedure may be applied for very minor non-compliances at busier aerodromes which may only have minimal effect on aviation safety.
- 6.5 When ASSD CAAN is satisfied with the application, DG CAAN will issue an exemption to the aerodrome operator. Examples of exemptions are available in **Appendix II**.
- 6.6 In the meantime, the aerodrome operator shall be required to conduct an annual review to ascertain that the mitigation measures are in place and effective. The review should also consider whether the non-compliance could be removed from ASSD CAAN findings. The outcomes of the review are required to be documented in the report to be submitted to ASSD for consideration.
- 6.7 Furthermore, the accepted non-compliances shall be published in the AIP if it is related to SARPs of CAR 14 Part 1 in accordance with CAR 15 Chapter 5.

7. Approval or Acceptance of a Safety Risk Assessment

- 7.1 The safety risk assessment conducted by the aerodrome operator is a core SMS function. Management approval and implementation of the safety risk assessment, including future updates and maintenance, are the responsibility of the aerodrome operator. The ASSD, CAAN may depend on the need and complexity of the application, require the submission of the safety risk assessment (Aeronautical Studies) for approval/acceptance.
- 7.2 The safety risk assessment process is as per Advisory Circular AC-13.
- 7.3 The ASSD, CAAN establishes the type of safety risk assessments that are subject to approval or acceptance and determines the process used for that approval/acceptance.
- 7.4 In connection with paragraph 6.1, where required, a safety risk assessment shall be submitted by the aerodrome operator to ASSD, CAAN for approval/acceptance prior to the acceptance of non-compliances.
- 7.5 The ASSD, CAA analyses the safety risk assessment and verifies that:
 - appropriate coordination has been satisfactorily performed among the concerned stakeholders;
 - the risks have been properly identified and assessed, based on documented arguments (e.g. physical or Human Factors studies, analysis of previous accidents and incidents);
 - the proposed mitigation measures adequately address the risk and bring the risk to an acceptable level; and
 - the time frames for planned full compliance are acceptable.

Note. — It is preferable to work with a team of the CAAN operational experts in the areas considered in the safety risk assessment.

7.6 On completion of the analysis of the safety risk assessment, ASSD, CAAN:

- either gives formal approval or acceptance of the safety risk assessment to the aerodrome operator as specified in paragraph 6.1; or
- if some risks have been underestimated or have not been identified, coordinates with the aerodrome operator to reach an agreement on safety acceptance; or
- if no agreement can be reached, rejects the proposal for possible resubmission by the aerodrome operator.

7.7 ASSD, CAAN may also opt to impose additional conditions to ensure safety.

7.8 ASSD, CAAN should ensure that the mitigation and/or additional conditions imposed as per paragraph 6.7 are properly implemented and that they fulfil their purposes.

APPENDIX - I

APPLICATION FOR SEEKING EXEMPTION

(In duplicate)

1. DETAILS OF APPLICANT

- 1.1 Name of Aerodrome:
- 1.3 Airport Certificate Number:
- 1.4 Full name of applicant (in capital letters):

2. DETAILS OF EXEMPTION SOUGHT

- 2.1 Relevant provisions of CAAN ACR 2004 and CAR 14 Part 1 for which exemption is sought:
- 2.2 The category under which exemption sought (TEMPORARY/ PERMANENT):
- 2.3 Reasons why the exemption is needed (*The reasons provided should be detailed and self-explanatory*):
- 2.4 Period for which exemption is required:
- 2.5 If the exemption will affect a particular kind of operation, the details thereof:
- 2.6 For temporary exemption, the action plan for rectification and review of non-compliance, including the mitigation measures adopted for ensuring the safety during the exemption period:
- 2.7 For permanent exemption, the mitigation measures adopted to ensure safety of aircraft operation. Complete safety assessment report shall be enclosed:

I hereby certify that the foregoing information is correct in every respect and no relevant information has been withheld. I also undertake the responsibility for annually reviewing the conditions or mitigation measures and any other resultant non-compliance in

particular when any significant changes in the aerodrome activity and development are proposed.

SIGNATURE OF APPLICANT

DATE.....

NAME.....

(in capital letters)

POSITION HELD.....

(with official seal)

Note:

- i) It is an offense to make any false representation with the intent to deceive, for the purpose of procuring exemption.
- ii) CAAN may request the applicant to submit a safety assessment in association with the application for approval/acceptance. If so requested, the applicant shall submit the safety assessment within [5] working days from the date of request.
- iii) Application not completed in all respect and not accompanied with relevant enclosures will be rejected.

Appendix II

Sample Exemption issued by CAAN

Website hosting exemptions:

<https://caanepal.gov.np/storage/app/media/Exemption-TIA.pdf>

<https://caanepal.gov.np/storage/app/media/Exemption-Biratnagar.pdf>

<https://caanepal.gov.np/storage/app/media/Exemption-Nepalgunj.pdf>