

APPEALING SYSTEM PROCEDURES ON DGCA DECISIONS

Conduct of decisions of the Kuwait DGCA:

1. The functions conferred on the Kuwait DGCA with respect to:
 - a) registration of aircraft;
 - b) certification of operators of aircraft;
 - c) certification of airworthiness of aircraft;
 - d) noise certification;
 - e) certification of compliance with the requirements for the emission by aircraft engines of unburned hydrocarbons;
 - f) personnel licensing;
 - g) licensing of aerodromes;
 - h) validation of any certificate or license;
 - i) approval of equipment and approval or authorization of persons;
 - j) approval of schemes for the regulation of the flight times of aircraft crew;
 - k) receiving reports of reportable occurrences;
 - l) making air traffic directions;
 - m) making airspace policy directions;
2. Subject to Paragraphs 8 and 9 of this Chapter, a decision with respect to any of the matters referred to in Para 1 of this Chapter, being a decision to register, refuse to register, cancel or amend the registration of an aircraft or to grant, refuse to grant, validate, refuse to validate, revoke, suspend, vary or refuse to vary a certificate, license, approval, authorization or rating, or make an air traffic direction or an airspace policy direction may be made on behalf of the Kuwait DGCA only by a member or employee of the Kuwait DGCA.
3. Subject to Paragraphs 8, 9 and 10 of this Chapter, where -
 - a) It is decided that it would be inexpedient in the public interest for an aircraft to be registered in the State of Kuwait; or
 - b) An application for the grant, validation or variation of a certificate, license, approval, authorization or rating has been refused or granted in terms other than those requested by the applicant;

Kuwait DGCA will serve on the applicant a notice stating the reasons for the decision, and the applicant may within 14 days after the date of service of that notice request that the case be reviewed by the Kuwait DGCA.

4. Subject to Paragraphs 8, 9 and 10 of this Chapter, where it is proposed to:
 - a) cancel the registration of an aircraft on the grounds that it would be inexpedient in the public interest for it to continue to be registered in the State of Kuwait; or
 - b) Revoke, suspend or vary a certificate, license, approval, authorization, validation or rating or make an air traffic direction or an airspace policy direction otherwise than on the application of the holder;

Kuwait DGCA will serve on the person concerned notice of the proposal together with the reasons for it, and the person concerned may within 14 days after the date of service of that notice, serve on the Kuwait DGCA a request that the case be decided by the Kuwait DGCA and not by any other person on its behalf.

5. Any person who has failed any test or examination which he is required to pass before he is granted or may exercise the privileges of a personnel license may within 14 days after being notified of his failure, request that the Kuwait DGCA determine whether the test or examination was properly conducted.
6.
 - a) The function of deciding a case where such a request is referred to in Paragraphs 3, 4 or 5 of this Chapter has been duly served on the Kuwait DGCA and for the purpose of making any decision in such a case a quorum of the Kuwait DGCA will be one member.
 - b) The Kuwait DGCA will sit with such technical assessors to advise it as the Kuwait DGCA may appoint, but the Kuwait DGCA will not appoint as an assessor any person who participated in the decision or proposal or in giving or assessing the test or examination which is to be the subject of the Kuwait DGCA's decision.
7. Where a request under Paragraph 3, 4 or 5 of this Chapter, has been duly served, the Kuwait DGCA will, before making a decision:
 - a) consider any representations which may have been served on it by the person concerned within 21 days after the date of service of the notice under that paragraph given by the Kuwait DGCA; and

- b) Where the person concerned has requested the opportunity to make oral representations in his representations under sub-paragraph (a) above, afford him an opportunity to make such representations and consider them.
8.
 - a) Where an oral hearing is held it will be held in public except where the Kuwait DGCA is satisfied that, in the interests of morals, public order, national security, juveniles or the protection of the private lives of the parties a private hearing is required, or where it considers that publicity would prejudice the interests of justice.
 - b) The following persons will be entitled to attend the hearing of an appeal, whether or not it is in private:
 - (i) a legal representative of the person concerned; and
 - (ii) any other person which the Kuwait DGCA, with the consent of the parties, permits to attend the hearing.
9. Nothing in this Chapter will:
 - a) prevent the Kuwait DGCA or any person authorized so to act on behalf of the Kuwait DGCA from provisionally cancelling the registration of an aircraft or provisionally suspending or varying any certificate, license, approval, authorization, validation or rating granted or having effect or making a provisional air traffic direction pending inquiry into or consideration of the case;
 - b) apply to the variation of a flight manual, performance schedule or other document incorporated by reference in a certificate of airworthiness;
 - c) apply where the Kuwait DGCA refuses to register or cancels or amends the registration of an aircraft or refuses to grant or validate, grants or validates in terms other than those requested by the applicant, revokes, suspends or varies a certificate, license, approval, authorization or rating pursuant to a direction given by the Minister.
10. Nothing in Paragraphs 2, 3 or 4 of this Chapter will apply:
 - a) in respect of a medical certificate or certificate of test or experience relating to a personnel license;
 - b) Kuwait DGCA refuses an application for the grant of an aerodrome license or grants such an application in terms other than those requested by the applicant or proposes to revoke, suspend or vary an aerodrome license otherwise than on the application of the holder.
11. Nothing in paragraphs 3 or 4 of this Chapter, will apply where the Kuwait DGCA;

- a) refuses an application by the holder of an aerodrome license for the substitution of an ordinary aerodrome license for a public use aerodrome license; or
 - b) Proposes, otherwise than on the application of the license holder, to substitute a public use aerodrome license for an ordinary aerodrome license.
12. Reasons for decisions

Where the Kuwait DGCA makes a decision pursuant to Paragraph 6, it will be the duty of the Kuwait DGCA to serve a statement of its reasons for the decision on the person concerned.

Appeal Process:

1. The applicant will write a letter to the President of Civil Aviation explaining his case and the reason for the appeal.
2. The President of Civil Aviation will forward the appeal to the Deputy Director General for Aviation Safety and Air Transport Affairs who will in turn forward the same to the Aviation Safety Director after marking his comments on the appeal.
3. The Aviation Safety Director will forward the same to the Licensing Division and other concerned divisions.
4. After receiving the input from concerned divisions, the Aviation Safety Director will formulate a committee to study the appeal and to meet with the concerned person to listen to his comments.
5. The appeal case will be carefully studied by the committee and are commendation will be forwarded to the Aviation Safety Director who will study the conclusions and meet with the concerned committee for consultation.
6. A final decision on the appeal case will be drafted and forwarded to the President of Civil Aviation through proper channel.

Note:

1. *The Committee members will be at least 3 specialized persons, one of whom will be the Head of Committee.*
2. *Final decision will be based on the majority of votes, but in all cases it will not be less than the 50%.*
3. *No Committee Member will be designated as member is his presence would for any reason represent a conflict of interest towards the final decision of the Committee.*