



# Civil Aviation Tribunal of Canada

## Performance Report

For the period ending  
March 31, 2001

Canada

## **Improved Reporting to Parliament Pilot Document**

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament.

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of funds.

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## Foreword

In the spring of 2000 the President of the Treasury Board tabled in Parliament the document “Results for Canadians: A Management Framework for the Government of Canada”. This document sets a clear agenda for improving and modernising management practices in federal departments and agencies.

Four key management commitments form the basis for this vision of how the Government will deliver their services and benefits to Canadians in the new millennium. In this vision, departments and agencies recognise that they exist to serve Canadians and that a “citizen focus” shapes all activities, programs and services. This vision commits the government of Canada to manage its business by the highest public service values. Responsible spending means spending wisely on the things that matter to Canadians. And finally, this vision sets a clear focus on results – the impact and effects of programs.

Departmental performance reports play a key role in the cycle of planning, monitoring, evaluating, and reporting of results through ministers to Parliament and citizens. Earlier this year, departments and agencies were encouraged to prepare their reports following certain principles. Based on these principles, an effective report provides a coherent and balanced picture of performance that is brief and to the point. It focuses on results – benefits to Canadians – not on activities. It sets the department’s performance in context and associates performance with earlier commitments, explaining any changes. Supporting the need for responsible spending, it clearly links resources to results. Finally the report is credible because it substantiates the performance information with appropriate methodologies and relevant data.

In performance reports, departments strive to respond to the ongoing and evolving information needs of parliamentarians and Canadians. The input of parliamentarians and other readers can do much to improve these reports over time. The reader is encouraged to assess the performance of the organization according to the principles outlined above, and provide comments to the department or agency that will help it in the next cycle of planning and reporting.

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This report is accessible electronically from the Treasury Board of Canada Secretariat Internet site:

<http://www.tbs-sct.gc.ca/rma/dpr/dpre.asp>

Comments or questions can be directed to this Internet site or to:

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# **Civil Aviation Tribunal**

## **Departmental Performance Report** **For the period ending March 31, 2001**

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The Honourable David M. Collenette, P.C., M.P.



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## **SECTION I: CHAIRPERSON`S MESSAGE**

The Civil Aviation Tribunal, an independent quasi-judicial body possessing aeronautics expertise, is integral to the enforcement of aviation safety, airworthiness, and aviation security measures in Canada. It fulfils the essential role of providing an independent review of ministerial enforcement and licensing actions taken against holders of Canadian aviation documents under the *Aeronautics Act*.

The Tribunal conducts itself in an open, impartial manner consistent with procedural fairness and natural justice. It adjudicates matters that have a serious impact on the livelihood and operations of the aviation community. Given its structure and process for conducting hearings, the Tribunal is readily accessible to that community.

The knowledge and experience in aeronautics possessed by Tribunal members enhances their independence by equipping them to understand and assess the validity of the reasons for enforcement and licensing actions. It also increases the confidence which Transport Canada and Canadian aviation document holders place in the decisions of the Tribunal.

It is important to take into account the gains in efficiency that have been achieved simply as a result of the Tribunal and the parties appearing before it adjusting to the aviation safety enforcement and licensing regime implemented in the 1986 *Aeronautics Act* amendments. Parties appearing before the Tribunal, including Transport Canada and organizations representing Canadian aviation document holders, have now acquired levels of experience and judgment which contribute greatly to achieving efficiencies in the hearing process, procedurally fair results and legitimacy for the overall enforcement process. This applies to all types of hearings.

Faye Smith  
Chairperson



## **SECTION II: AGENCY CONTEXT**

### **Mandate, Vision and Mission**

The mandate of the Civil Aviation Tribunal is provided for by Part IV of the *Aeronautics Act*. The Tribunal's principal mandate is to hold review and appeal hearings at the request of interested parties with respect to certain administrative actions taken by the Minister of Transport.

The objective of the program is to provide the aviation community with the opportunity to have enforcement and licensing decisions of the Minister of Transport reviewed by an independent body.

The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, or refusal to renew a Canadian aviation document on medical or other grounds. The person or corporation affected is referred to as the document holder.

These decisions are reviewed through a two-level hearing process: review and appeal. All hearings are to be held expeditiously and informally, in accordance with the rules of fairness and natural justice.

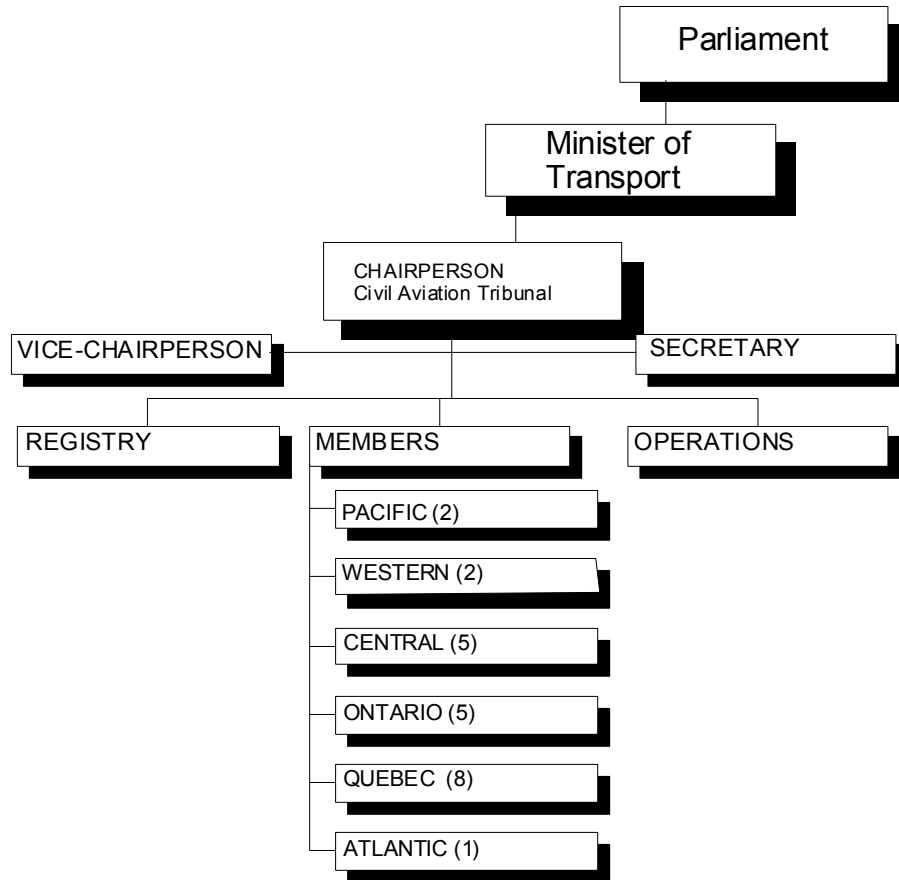
At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter back to the Minister for reconsideration.

### **Departmental Organization**

The Civil Aviation Tribunal's only business line is to hold review and appeal hearings. The Tribunal represents the only forum for ensuring that Canadian aviation document holders have access to an independent assessment governed by considerations of natural justice.

The office of the Tribunal is located in the National Capital Region. The Civil Aviation Tribunal's Chairperson is also its chief executive officer. The Chairperson, Vice-Chairperson and immediate staff account for nine full-time equivalents. Twenty-three part-time members were in office during 2000–2001. Members are drawn from across Canada and are appointed by Order in Council on the basis of their knowledge and experience in aeronautics, including aviation medicine. All members report to the Chairperson. The part-time members are remunerated for the days they serve.

**Figure 1: Organization Chart**



- The lower half of the organization chart displays the distribution of part\_time members by region. All members report to the Chairperson.
- Nine full\_time equivalents are utilized by the continuing full\_time employees including the Chairperson, Vice\_Chairperson and twenty\_three part\_time members.

## SECTION III: PERFORMANCE ACCOMPLISHMENTS

### Performance Results Expectations and Strategic Outcomes

To provide Canadians with:	To be demonstrated by:	Reported in:
independent review of enforcement and licensing decisions taken by the Minister of Transport under the <i>Aeronautics Act</i>	Ⓒ hearings that are held expeditiously, fairly and informally	DPR Sec III P.8.
	Ⓒ timely disposition of review and appeal hearings within service standards	DPR Sec III P.10. Annual Report P.14 <i>Civil Aviation Tribunal Rules</i>
	Ⓒ hearings conducted in accordance with the rules of fairness and natural justice	DPR Sec III P.10.
	Ⓒ the use of pre-hearing conferences to streamline and expedite the hearing process	DPR Sec III P.10.
	Ⓒ quality and consistency of decision making	DPR Sec III P.8.
	Ⓒ a level of satisfaction by the aviation community	DPR Sec III Performance Accomplishments Web Site: <a href="http://www.cat-tac.gc.ca">www.cat-tac.gc.ca</a> Guide to Tribunal Hearings

### Performance Accomplishments

In conducting its reviews of enforcement and licensing decisions of the Minister of Transport, the Civil Aviation Tribunal provides a public interest program that is unique to civil aviation in Canada. The Tribunal's efficiencies provide visible validation and confirmation of Canada's civil aviation safety system. Moreover, the Tribunal process is able to quickly identify aviation concerns of a technical or legislative nature leading to necessary amendments of aviation regulations to benefit all Canadians through the enhancement and maintenance of aviation safety in Canada. For 2000–2001 the Tribunal

forecasted work on approximately 350 case files with planned spending of \$1,204,244 and nine FTEs. The Tribunal worked on 350 actual case files. A breakdown of cases by category and region as well as reviews and appeals held over the past three five are in Figures 2 to 4 on pages 8 and 9.

In the 12-month reporting period, the Civil Aviation Tribunal registered 222 new requests for reviews and 22 requests for appeals from the aviation community. This represents a decrease of 6 new case files registered over fiscal year 1999–2000. In addition to the new cases registered in this reporting period, 150 cases were carried over from the previous reporting period, bringing the total caseload to 350. This represents an increase of 25 cases over 1999–2000.

A breakdown of the 350 cases handled by the Tribunal reveals that 16 cases awaiting a decision were carried over from the fiscal year 1999–2000. In the current reporting period, 150 cases were concluded without a hearing and 91 cases were concluded with a hearing, of which 24 are still awaiting decisions. At the end of 2000–2001, 73 cases were pending further action and 20 have been scheduled for the 2001–2002 fiscal year.

It should be noted that many of the 150 cases concluded without a hearing namely 58 cases were requests registered with the Tribunal and concluded shortly before the hearing was to take place, which means that all registry work that leads up to the hearing was completed. In many cases an agreement was reached between the parties. In other cases Transport Canada or the document holder withdrew their applications. Of the 91 cases concluded with a hearing, 69 were 1st level reviews, and 22 were 2nd level appeals and 32 cases had been postponed and rescheduled at a later date.

**Figure 2: Total Cases by Category**

*Category	Pac.	West.	Cent.	Ont.	Que.	Atl.	Hq.	Total	%
Medicals	12	8	10	22	22	3	0	77	22
Suspensions	10	2	2	17	24	7	3	65	19
Fines**	7	40	39	38	60	11	5	200	57
Cancellations	2	0	0	0	6	0	0	8	2
<b>Totals</b>	31	50	51	77	112	21	8	350	100
%	9	14	15	22	32	6	2	100	

\* See Reference for more information on categories

\*\* Also includes a case received from the Canadian Transportation Agency

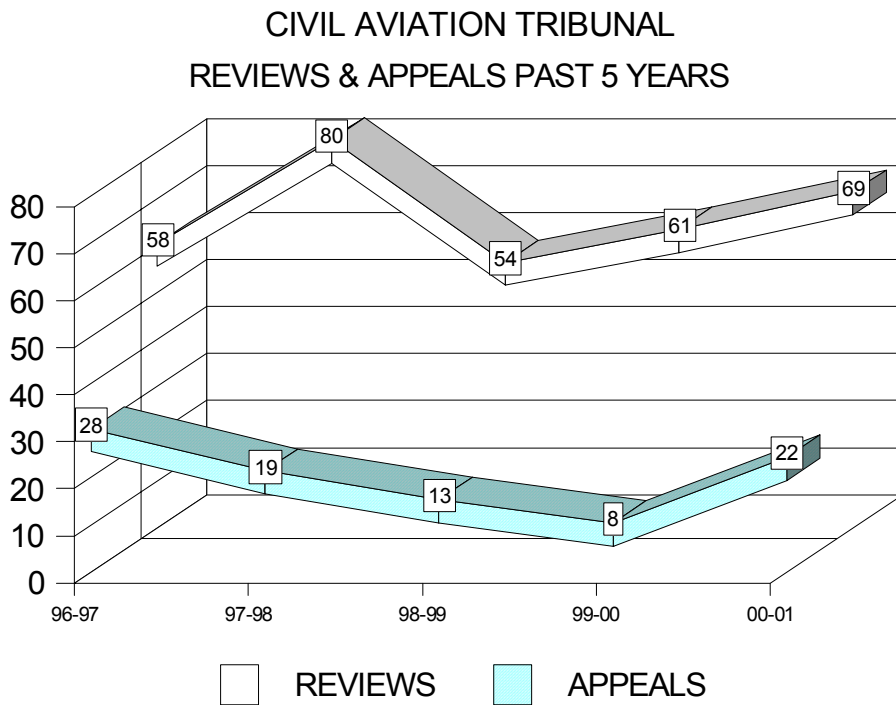
*Note: Central and Western Regions reflect Prairie & Northern Region*

Indicators in Figures 2 and 3 are actual numbers of cases. Total cases by category are not sufficient to determine all financial implications by simply forecasting the number of applications received by type of infraction and the manner in which they are resolved. However, an estimated cost average for review and appeal hearings for the past five fiscal years is presented in Figure 5 page 15.

**Figure 3: Reviews and Appeals Concluded with a Hearing**

Hearing Level	Pac.	West.	Cent.	Ont.	Que.	Atl.	Hq.	Total	%
Reviews	5	6	16	14	25	3	0	69	76
Appeals	2	3	7	2	8	0	0	22	24
Totals	7	9	23	16	33	3	0	91	100

**Figure 4: Reviews and Appeals over the past 5 Years**



The program's effectiveness can be measured by its ability to provide the aviation community with the opportunity to have Ministerial decisions reviewed fairly, equitably and within a reasonable period of time. Tribunal hearings are readily accessible to the lay person without the attendant legal complexities and case backlogs which were visited upon the court system that prevailed prior to the creation of the Civil Aviation Tribunal.

The Tribunal strongly encourages its members to provide their determinations quickly. Although there is no statutory requirement for it to do so, the Tribunal issues written reasons for all its determinations. This allows Transport Canada and Canadian aviation document holders to better understand the outcome of the matter and, where applicable, to make a more enlightened decision as to the exercise of their right of appeal. The average lapsed time between the conclusion of a review hearing and the issuance of a determination is 49 days and 68 days for an appeal. This represents an improvement in efficiency from 1992–1993 as the average lapsed time between the conclusion of a review hearing and the issuance of a determination was 120 days and 90 days for an appeal. This brings the hearing process to a timely conclusion for both parties appearing before the Tribunal and a high level of satisfaction from the aviation community.

The Tribunals's mission is to do justice and be seen to do justice in all reviews and appeals and to resolve disputes according to the *Rules Governing the Practice and Procedure in Connection with Matters Dealt with by the Civil Aviation Tribunal* in all cases in a fair independent and timely manner.

The Tribunal encourages the use of pre-hearing conferences to assist the parties appearing before it, to identify the issues for determination by the Tribunal and to disclose and exchange documents. By conducting a pre-hearing conference, the length of the hearing in 15 cases was reduced from 4 days to 2 days and last-minute adjournments necessitated by late disclosure were avoided. Such conferences have also been particularly effective in settling licence suspensions and cancellations on medical grounds without the necessity of a hearing. The Tribunal staff contacts the parties to schedule mutually agreed hearing dates to the extent possible to avoid unnecessary adjournments.

The success of the Tribunal over the past 15 years can be attributed to the importance placed on the training and development of its part-time members and staff. A significant portion of the Tribunal's budget is expended on training. The skilfully developed training programs and seminars are reflected in the quality of hearings that are held across the country and the decisions rendered by Tribunal members.



## **Other Performance Issues to Note**

### **Government-wide Priorities**

The Civil Aviation Tribunal reports to Parliament through the Minister of Transport. Its clients are the aviation community and Transport Canada. The Tribunal serves the Canadian flying public by contributing to a safe and efficient aviation enforcement and licensing system.



## **ANNEX 1: CONSOLIDATING REPORTING**

### **Future Plans**

The mandate of the Civil Aviation Tribunal will be expanded to act as a multi-modal review body for administrative and enforcement actions taken under various federal transportation acts. Therefore, the Tribunal's caseload will enlarge considerably over the next few years.

### **Statutory Annual Reports**

The Tribunal will submit for discussion to the Canadian Aviation Regulation Advisory Council the repeal of section 35 of the *Aeronautics Act*. It is our understanding that the legislation has been drafted for the expansion of the Civil Aviation Tribunal to a multi-modal tribunal. Should the decision be made to eliminate the annual report, it would likely be more expedient to make the change at that time. Consequently, it is likely that Canadian Aviation Regulation Advisory Council will defer the amendment proposal of section 35 to that time.

### **Social Union Framework Agreement**

The Civil Aviation Tribunal represents the only forum for ensuring that Canadian aviation document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other agency, board or commission. It is unique in the transportation sector in that its function is entirely adjudicative. There are approximately 65,000 licensed aviation personnel in Canada and approximately 30,000 registered aircraft. Because of this volume, the number of infractions under the *Aeronautics Act* should rise slightly or at least remain unchanged. The Enforcement and Licensing personnel at Transport Canada can, under the *Aeronautics Act*, suspend, cancel or refuse to renew a Canadian aviation document or impose a monetary penalty. The level of enforcement is entirely controlled by Transport Canada but impacts on the Tribunal. The Tribunal is also affected by the department's rewrite of its aviation regulations including the designation of a large number of offences under the *Designated Provisions Regulations* which were formerly adjudicated in the court system.



## ANNEX 2: FINANCIAL REPORTING TABLES

### Presentation of Financial Information

Planned spending for the Tribunal was \$985,000. During the year, supplementary estimates increased the total authorities to \$1,204,000. The actual expenditures were \$1,120,244. The personnel costs accounted for 54% of actual expenditures and operations accounting for 46%. The cost for cases concluded with a hearing was \$253,859 and \$41,662 for cases concluded without a hearing.

There has been a marked increase in the general demand for the Tribunal's services. The growth in applications concluding with the more costly formal hearings has been particularly noticeable over the last year. In 1999-2000, the monthly hearing average rose from 5.5 to 8. This level of monthly activity has continued in 2000-2001. In addition to the higher volume of hearings, there has been an increase in case complexity and accompanying escalation of price for travel and professional assistance. Consequently, to cover increased administration charges, the Tribunal received additional funds by a Treasury Board Submission in the amount of \$135,000. The Tribunal was required to have a new financial system, called the FIS system, fully in place as of April 1, 2001. The Tribunal is connected with Public Works and Government Services Canada's financial system known as the Common Department Financial System (CDFS). The special Treasury Board (TB) vote 10 funding allocation was in the amount of \$20,000 for the implementation of the financial system.

**Figure 5: Average Costs for Reviews and Appeals**

<i>(Dollars)</i>	<b>2000-2001</b>	<b>1999-2000</b>	<b>1998-1999</b>
Reviews	\$2,535.41	\$2,977.37	\$2,588.00
Appeals	\$4,913.51	\$7,114.77	\$5,740.00
Reviews and Appeals Held	<b>91</b>	<b>69</b>	<b>67</b>

When comparing the types of hearing actions, there are significant variances in resources spent due to uncontrollable factor such as location, travel, time spent on hearings, remuneration, interpreters, preparation, decision writing, costs for court reporting, transcripts, translations. The Chairperson and Vice-chairperson presided over 19 of the 91 cases. Cases are heard together to reduce costs. The average costs fluctuate each fiscal year as they are determined by the number of reviews and the complexity of cases.

The following tables are applicable to the Civil Aviation Tribunal

**Table 1 – Summary of Voted Appropriations**

Financial Requirements by Authority (\$ thousands)				
	s	2000–2001		
Vote		Planned Spending	Total Authorities	Actual
	Civil Aviation Tribunal			
40	Operating expenditures	885.0	1,101.0	1,020.2
	Capital expenditures	–	–	–
(S)	Contributions to employee benefit plans	100.0	103.0	100.0
(S)	Chairperson of the Civil Aviation Tribunal - Salary and motor car allowance	–	–	–
(S)	as required	–	–	–
	Total Agency	985.0	1,204.0	1,120.2

**Table 2 – Comparison of Total Planned to Actual Spending**

Civil Aviation Tribunal			
Departmental Planned versus Actual Spending (thousands)			
	2000–2001		
Business Line	Planned Spending	Total Authorities	Actual Spending
FTEs	8	8	9
Operating	985.0	1,204.0	1,120.2
Total Gross Expenditures	985.0	1,204.0	1,120.2
Cost of services provided by other departments	165.8	165.8	159.3*
Net Cost of Program	1,150.8	1,369.8	1,279.5

\* There is a decrease of \$6.5 for the accommodation provided by Public Works and Government Services Canada.

**Table 3 – Historical Comparison of Total Planned Spending to Actual Spending**

Historical Comparison of Departmental Planned versus Actual Spending (\$ thousands)					
			2000–2001		
Business Line	Actual 1998-1999	Actual 1999-2000	Planned Spending	Total Authorities	Actual
Civil Aviation Tribunal	913.1	992.0	985.0	1,204.0	1,120.2
Total	913.1	992.0	985.0	1,204.0	1,120.2





## SECTION IV: OTHER INFORMATION

### Contacts for Further Information

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Faye Smith – Chairperson  
Allister Ogilvie – Vice-Chairperson  
Marie Desjardins – Acting Executive Services Manager  
Mary Cannon – Acting Registrar (Ontario, Prairie & Northern and Pacific Regions)  
Susanne Forgues – Acting Registrar (Headquarters, Quebec and Atlantic Regions)

### Statutes and Regulations Currently in Force

<i>Aeronautics Act</i>	R.S., c. A-2, as amended
<i>Canada Transportation Act</i> <i>Designated Provisions Regulations</i>	SOR/99-244, June 11, 1999
<i>Civil Aviation Tribunal Rules</i>	SOR/93-346, as amended

### Statutory Annual Reports and Other Departmental Reports

Report on Plans and Priorities 2001–2002  
Annual Report 2000–2001  
Guide to Tribunal Hearings

## Reference

The tables are presented under four categories

<b>Medicals</b>	<b>Suspensions</b>	<b>Fines</b>	<b>Cancellations</b>
<ul style="list-style-type: none"><li>- ATC*</li><li>- Pilot</li></ul>	<ul style="list-style-type: none"><li>- AME**</li><li>- Approved maintenance organization</li><li>- Operating certificate</li><li>- Operator security</li><li>- Personnel security</li><li>- Pilot competence</li><li>- Pilot enforcement</li><li>- Pilot instrument rating</li><li>- Pilot proficiency check</li></ul>	<ul style="list-style-type: none"><li>- AME** unpaid fine</li><li>- ATC* unpaid fine</li><li>- Aircraft owner unpaid fine</li><li>- Operator security unpaid fine</li><li>- Operator unpaid fine</li><li>- Pilot unpaid fine</li></ul>	<ul style="list-style-type: none"><li>- AME**</li><li>- Certificate of airworthiness</li><li>- Personnel security</li><li>- Pilot</li></ul>

\* Air Traffic controller

\*\* Aircraft maintenance engineer

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