

Subsidiary Legislation made under s.34.

## **Operating (Safety Management Systems) Regulations 2026.**

**LN.2026/026**

*Notice of Commencement - (LN.2026/029)*

**1.2.2026**

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### **ARRANGEMENT OF REGULATIONS**

Regulation

1. Title.
2. Commencement.
3. Schedule.
4. Enforcement action by the Authority.

### **SCHEDULE**

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*In exercise of the powers conferred on him by section 34 of the Civil Aviation Act 2024, the Director General has made the following Regulations –*

**Title.**

1. These Regulations may be cited as the Operating (Safety Management Systems) Regulations 2026.

**Commencement.**

2. These Regulations come into operation on the day appointed by the Director General by Notice in the Gazette.

**Schedule.**

3. The provisions in the Schedule have effect.

**Enforcement action by the Authority.**

4.(1) The Authority may, in accordance with the powers set out in section 25 (Suspension of an aviation document), section 26 (Revocation of an aviation document) and section 27 (Administrative penalties) of the Act, take enforcement action for breaches of the provisions in the Schedule.

(2) The Authority may not impose an administrative penalty in respect of any conduct if –

- (a) the person has been convicted of an offence in respect of that conduct; or
- (b) criminal proceedings for an offence have been instituted against the person in respect of the conduct and the proceedings have not been concluded.

**SCHEDULE**

**CHAPTER 1**

**DEFINITIONS**

*Note: Refer to CAR DEF for all definitions used in CAR SMS.*

**CHAPTER 2**

**APPLICABILITY**

**SMS.021      Applicability**

These regulations shall be applicable to safety management functions related to, or in direct support of, the safe operation of aircraft.

*Note 1: Safety management provisions for the Authority are contained in Chapter 3 and relate to the State Safety Programme.*

*Note 2: Within the context of these regulations, the term “service provider” refers to those organisations listed in CAR SMS.033(b)(1) and does not include international general aviation operators.*

*Note 3: Safety management provisions for specified aviation service providers and operators are in Chapter 4 and relate to safety management systems (SMS).*

*Note 4: No provision of these regulations is intended to transfer to the Authority the responsibilities of the aviation service provider or operator. This includes functions related to, or in direct support of, the safe operation of aircraft.*

*Note 5: In the context of these regulations, “responsibility” (singular) refers to “the Authority responsibility” with respect to international obligations under the Convention on International Civil Aviation, while “responsibilities” (plural) should be given its ordinary meaning (i.e., when referring to functions and activities that may be delegated).*

**CHAPTER 3**

**THE AUTHORITY SAFETY MANAGEMENT RESPONSIBILITIES**

**SMS.031      State safety programme (SSP)**

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The Authority shall establish and maintain an SSP that is commensurate with the size and complexity of the Authority's civil aviation system, but may delegate safety management-related functions and activities to another the Authority, Regional Safety Oversight Organisation (RSOO) or Regional Accident and Incident Investigation Organisation (RAIO).

*Note 1: The SSP of Gibraltar forms part of the SSP of the United Kingdom, as the signatory to the Convention.*

*Note 2: The Authority retains responsibility for safety management-related functions and activities delegated to another national aviation authority, RSOO or RAIO.*

**SMS.032 State safety policy, objectives and resources**

- (a) Primary aviation legislation
  - (1) The Authority shall establish primary aviation legislation in accordance with Section 1 of Appendix 1.
  - (2) The Authority should establish an enforcement policy that specifies the conditions and circumstances under which service providers with an SMS are allowed to deal with, and resolve, events involving certain safety issues, internally, within the context of their SMS and to the satisfaction of the appropriate the Authority.
- (b) Specific operating regulations
  - (1) The Authority shall establish specific operating regulations in accordance with section 2 of Appendix 1.
  - (2) The Authority shall periodically review specific operating regulations, guidance material and implementation policies to ensure they remain relevant and appropriate.
- (c) State system and functions
  - (1) The Authority shall establish the system and functions in accordance with Section 3 of Appendix 1.
  - (2) The Authority should identify, define and document the requirements, obligations, functions and activities regarding the establishment and maintenance of the SSP, including the directives to plan, organise, develop,

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maintain, control and continuously improve the SSP in a manner that meets the Authority's safety objectives.

- (3) The Authority should establish a safety policy and safety objectives that reflect their commitment regarding safety and facilitate the promotion of a positive safety culture in the aviation community.
- (4) The safety policy and safety objectives should be published and periodically reviewed to ensure that they remain relevant and appropriate to the Authority.

(d) Qualified technical personnel

The Authority shall establish requirements for the qualification of technical personnel in accordance with Section 4 of Appendix 1.

*Note: The term "technical personnel" refers to those persons performing safety-related functions for or on behalf of the Authority.*

(e) Technical guidance, tools and provision of safety-critical information

The Authority shall establish technical guidance and tools and provide safety-critical information in accordance with Section 5 of Appendix 1.

**SMS.033 State safety risk management**

(a) Licensing, certification, authorisation and approval obligations

The Authority shall meet the licensing, certification, authorisation and approval obligations in accordance with Section 6 of Appendix 1.

(b) Safety management system obligations

- (1) The Authority shall require that the following service providers under their authority implement an SMS:
  - (i) approved training organisations in accordance with CAR LIC that are exposed to safety risks related to aircraft operations during the provision of their services;
  - (ii) operators of aeroplanes or helicopters authorised to conduct international commercial air transport, in accordance with CAR OPS 1 or CAR OPS 3, respectively;

- (iii) operators of remotely piloted aircraft systems authorised to conduct international operations in accordance with CAR OPS 4;
- (iv) approved maintenance organisations providing services to operators of aeroplanes or helicopters engaged in international commercial air transport, in accordance with CAR OPS 1 or CAR OPS 3, respectively;
- (v) organisations responsible for the type design or manufacture of aircraft, engines or propellers; and
- (vi) air traffic services (ATS) providers.

*Note: Further provisions related to the implementation of SMS by service providers can be found in Chapter 4.*

- (2) The Authority should ensure that safety performance indicators and targets established by service providers and operators are acceptable to the Authority.
- (3) The Authority shall establish criteria for international general aviation operators of large or turbojet aeroplanes in accordance with CAR OPS 2A, to implement an SMS.

*Note: Further provisions related to the implementation of SMS by international general aviation operators can be found in Chapter 4.*

- (4) The criteria established by the Authority in accordance (3) shall address the SMS framework and elements contained in Appendix 2.

(c) Accident and incident investigation

The Authority shall establish a process for its role in the event of an accident or serious incident including protocols for the cooperation with aircraft accident investigation authorities in support of the management of safety in Gibraltar.

(d) Hazard identification and safety risk assessment

- (1) The Authority shall establish and maintain a process to identify hazards from collected safety data.

*Note 1: Further information regarding safety data collection, analysis and the sharing and exchange of safety information can be found in Chapter 5.*

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*Note 2: Additional information to identify hazards and safety issues on which to base preventive actions may be contained in the Final Reports of accidents and incidents.*

- (2) The Authority shall develop and maintain a process that ensures the assessment of safety risks associated with identified hazards.
- (e) Management of safety risks
  - (1) The Authority shall establish mechanisms for the resolution of safety issues in accordance with Section 8 in Appendix 1.
  - (2) The Authority should develop and maintain a process to manage safety risks.

*Note 1: Actions taken to manage safety risks may include: acceptance, mitigation, avoidance or transfer.*

*Note 2: Safety risks and safety issues often have underlying factors which need to be carefully assessed.*

**SMS.034 State safety assurance**

- (a) Surveillance obligations
  - (1) The Authority shall meet the surveillance obligations in accordance with Section 7 of Appendix 1.

*Note: The surveillance of the service provider takes into consideration the safety performance as well as the size and complexity of its aviation products or services.*
  - (2) The Authority should establish procedures to prioritise inspections, audits and surveys towards those areas of greater safety concern or need.

*Note: Organisational risk profiles, outcomes of hazard identification and risk assessment, and surveillance outcomes may provide information for the prioritization of inspections, audits and surveys.*
  - (3) The Authority should periodically review the safety performance of an individual service provider.

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- (b) State safety performance
- (1) The Authority shall establish the acceptable level of safety performance to be achieved through their SSP.
- Note: An acceptable level of safety performance for the Authority can be achieved through the implementation and maintenance of the SSP as well as safety performance indicators and targets showing that safety is effectively managed and built on the foundation of implementation of existing safety-related SARPs.*
- (2) The Authority should develop and maintain a process to evaluate the effectiveness of actions taken to manage safety risks and resolve safety issues.
- Note: Safety assessment results may be used to support the prioritization of actions to manage safety risks.*
- (3) The Authority should evaluate the effectiveness of their individual SSPs to maintain or continuously improve their overall level of safety performance.

**SMS.035 State safety promotion**

- (a) Internal communication and dissemination of safety information

The Authority should promote safety awareness and the sharing and exchange of safety information to support, within the State aviation organisations, the development of a positive safety culture that fosters an effective SSP.

- (b) External communication and dissemination of safety information

The Authority should promote safety awareness and the sharing and exchange of safety information with the aviation community to foster the maintenance and improvement of safety and to support the development of a positive safety culture.

*Note 1: Refer to Chapter 5 for further details regarding safety information sharing and exchange.*

*Note 2: Promoting safety awareness could include identifying accessible safety training for the aviation community.*

**CHAPTER 4**



**SAFETY MANAGEMENT SYSTEM (SMS)**

*Note: An organisation may elect to extend one SMS across multiple service provider activities.*

**SMS.041      General**

- (a) The SMS of a service provider shall:
  - (1) be established in accordance with the framework elements contained in Appendix 2; and
  - (2) be commensurate with the size of the service provider and the complexity of its aviation products or services.
- (b) The Authority shall ensure that the service provider develops a plan to facilitate SMS implementation.
- (c) The SMS of an approved training organisation, in accordance with CAR LIC, that is exposed to safety risks related to aircraft operations during the provision of its services shall be made acceptable to the Authority(s) responsible for the organisation's approval.
- (d) The SMS of a certified operator of aeroplanes or helicopters authorised to conduct international commercial air transport, in accordance with CAR OPS 1 or CAR OPS 3 respectively, shall be made acceptable to the Authority.
- (e) The SMS of a certified remotely piloted aircraft systems authorised to conduct international operations in accordance with CAR OPS 4 shall be made acceptable to the Authority.
- (f) The SMS of an approved maintenance organisation providing services to operators of aeroplanes or helicopters engaged in international commercial air transport, in accordance with CAR OPS 1 or CAR OPS 3 respectively, shall be made acceptable to the Authority(s) responsible for the organisation's approval.
- (g) The SMS of an ATS provider shall be made acceptable to the Authority responsible for the provider's designation.
- (h) The SMS of an operator of a certified aerodrome, in accordance with Annex 14, Volume I, shall be made acceptable to the Authority.

**SMS.042 International general aviation — aeroplanes**

The SMS of an international general aviation operator, conducting operations of large or turbojet aeroplanes in accordance with CAR OPS 2A shall be commensurate with the size and complexity of the operation and meet the criteria established by the Authority.

*Note: Further provisions related to the criteria to be established by the Authority can be found in Chapter 3.*

**SMS.043 Aerial work**

- (a) The SMS of an aerial work operator, conducting operations of large or turbojet aeroplanes in accordance with CAR OPS 5 shall be commensurate with the size and complexity of the operation and meet the criteria established by the Authority.
- (b) The SMS of an aerial work operator, conducting operations of helicopters above 3175 kg MCTOM in accordance with CAR OPS 5, shall be commensurate with the size and complexity of the operation and meet the criteria established by the Authority.
- (c) The SMS of an aerial work operator, conducting the transportation of marine pilots by helicopter in accordance with CAR OPS 5, shall be commensurate with the size and complexity of the operation and meet the criteria established by the Authority.

**CHAPTER 5****SAFETY DATA AND SAFETY INFORMATION COLLECTION, ANALYSIS,  
PROTECTION, SHARING AND EXCHANGE**

*Note: The objective of this Chapter is to ensure the continued availability of safety data and safety information to support safety management activities.*

**SMS.051 Safety data collection and processing systems**

- (a) The Authority shall establish safety data collection and processing systems (SDCPS) to capture, store, aggregate and enable the analysis of safety data and safety information.

*Note 1: SDCPS refers to processing and reporting systems, safety databases, schemes for exchange of information, and recorded information including but not limited to:*

- (a) *data and information pertaining to accident and incident investigations;*

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- (b) *data and information related to safety investigations by the Authority or aviation service providers;*
- (c) *mandatory safety reporting systems;*
- (d) *voluntary safety reporting systems; and*
- (e) *self-disclosure reporting systems, including automatic data capture systems, as well as manual data capture systems.*

*Note 2: The term “safety database” may refer to a single or multiple database(s).*

*Note 3: SDCPS may include inputs from the Authority, industry and public sources, and may be based on reactive and proactive methods of safety data and safety information collection.*

- (b) The Authority shall establish a mandatory safety reporting system that includes the reporting of incidents.
- (c) The Authority shall apply, as part of its State Safety Programme, basic safety management principles to the medical assessment process of licence holders that as a minimum includes;
  - (1) routine analysis of in-flight incapacitation events and medical findings during medical assessments to identify areas of increased medical risk; and
  - (2) continuous re-evaluation of the medical assessment process to concentrate on identified areas of increased medical risk.
- (d) The Authority shall establish a voluntary safety reporting system to collect safety data and safety information not captured by mandatory safety reporting systems.
- (e) The Authority authorities responsible for the implementation of the SSP should have access to the SDCPS to support their safety responsibilities, in accordance with the principles in Appendix 3.

*Note: The Authority authorities responsible for the implementation of the SSP include accident investigation authorities.*

- (f) The safety database should use standardized taxonomy to facilitate safety information sharing and exchange.

**SMS.052 Safety data and safety information analysis**

- (a) The Authority shall establish and maintain a process to analyse the safety data and safety information from the SDCPS and associated safety databases.

*Note 1: Specific provisions for the identification of hazards as part of their safety risk management and safety assurance processes can be found in Chapter 3.*

*Note 2: The purpose of the safety data and safety information analysis performed by the Authority is to identify systemic and cross-cutting hazards that might not otherwise be identified by the safety data analysis processes of individual service providers and operators.*

*Note 3: The process may include predictive methods of safety data analysis.*

**SMS.053 Safety data and safety information protection**

- (a) The Authority shall accord protection to safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources in accordance with Appendix 3.

*Note: Sources include individuals and organisations.*

- (b) The Authority should extend the protection referred to in paragraph (c) to safety data captured by, and safety information derived from, mandatory safety reporting system and related sources.

*Note: A reporting environment where employees and operational personnel may trust that their actions or omissions that are commensurate with their training and experience will not be punished is fundamental to safety reporting.*

- (c) Subject to SMS.053(a) and (b), the Authority shall not make available or use safety data or safety information collected, stored or analysed in accordance with SMS.051 or SMS.052 for purposes other than maintaining or improving safety, unless the competent authority determines, in accordance with Appendix 3, that a principle of exception applies.
- (d) Notwithstanding SMS.053(c), the Authority shall not be prevented from using safety data or safety information to take any preventive, corrective or remedial action that is necessary to maintain or improve aviation safety.

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*Note: Specific provision aimed at ensuring that there is no overlap with the protection of accident investigation records is contained in Appendix 3, 1.2.*

- (e) The Authority shall take necessary measures, including the promotion of a positive safety culture, to encourage safety reporting through the systems referred to in SMS.051(b) and (c).
- (f) The Authority should facilitate and promote safety reporting by adjusting their applicable laws, regulations and policies, as necessary.
- (g) In support of the determination referred to in SMS.053(c), the Authority should institute and make use of appropriate advance arrangements between the appropriate authorities and those Authority bodies entrusted with aviation safety and those entrusted with the administration of justice. Such arrangements should take into account the principles specified in Appendix 3.

*Note: These arrangements may be formalized through legislation, protocols, agreements or memoranda of understanding.*

**SMS.054 Safety information sharing and exchange**

*Note: Sharing refers to giving, while exchange refers to giving and receiving in return.*

- (a) If the Authority, in the analysis of the information contained in its SDCPS, identifies safety matters considered to be of interest to other States, the Authority shall forward such safety information to them as soon as possible. Prior to sharing such information, the Authority shall agree on the level of protection and conditions on which safety information will be shared. The level of protection and conditions shall be in line with Appendix 3.
- (b) The Authority shall promote the establishment of safety information sharing or exchange networks among users of the aviation system, and facilitate the sharing and exchange of safety information, unless national law provides otherwise.

## APPENDIX 1

## STATE SAFETY OVERSIGHT (SSO) SYSTEM CRITICAL ELEMENTS (CEs)

*Note 1: The term “relevant authorities or agencies” is used in a generic sense to include all authorities with aviation safety management and oversight responsibility which may be established by the Authority as separate entities, such as Airport Authorities, ATS Authorities and Meteorological Authorities.*

*Note 2: The SSO system CEs are applied, as appropriate, to authorities performing safety oversight functions as well as authorities performing investigation of accidents and incidents or other safety management activities.*

**1. Primary aviation legislation (CE-1)**

- 1.1 The Authority shall promulgate a comprehensive and effective aviation law, commensurate with the size and complexity of their aviation activity and consistent with the requirements contained in the Convention on International Civil Aviation, to enable the oversight and management of civil aviation safety and the enforcement of regulations through the relevant authorities or agencies established for that purpose.

*Note: This includes ensuring that the aviation law remains relevant and appropriate to the Authority.*

- 1.2 The aviation law shall provide personnel performing safety oversight functions access to the aircraft, operations, facilities, personnel and associated records, as applicable, of individuals and organisations performing an aviation activity.

**2. Specific operating regulations (CE-2)**

The Authority shall promulgate regulations to address, at a minimum, national requirements emanating from the primary aviation legislation, for standardized operational procedures, products, services, equipment and infrastructures in conformity with the Annexes to the Convention on International Civil Aviation.

*Note: The term “regulations” is used in a generic sense and includes but is not limited to instructions, rules, edicts, directives, sets of laws, requirements, policies and orders.*

**3. State system and functions (CE-3)**

- 3.1 The Authority shall establish relevant authorities or agencies, as appropriate, supported

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by sufficient and qualified personnel and provided with adequate financial resources for the management of safety.

- 3.2 The Authority authorities or agencies shall have the stated safety functions and objectives to fulfil their safety management responsibility.

*Note: This includes the participation of the Authority aviation organisations in specific activities related to the management of safety in the Authority, and the establishment of the roles, responsibilities and relationships of such organisations.*

- 3.3 The Authority should take necessary measures, such as remuneration and conditions of service, to ensure that qualified personnel performing safety oversight functions are recruited and retained.
- 3.4 The Authority shall ensure that personnel performing safety oversight functions are provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.
- 3.5 The Authority should use a methodology to determine their staffing requirements for personnel performing safety oversight functions, taking into account the size and complexity of the aviation activities in their State.

**4. Qualified technical personnel (CE-4)**

- 4.1 The Authority shall establish minimum qualification requirements for the technical personnel performing safety-related functions and provide for appropriate initial and recurrent training to maintain and enhance their competence at the desired level.
- 4.2 The Authority shall implement a system for the maintenance of training records for technical personnel.

**5. Technical guidance, tools and provision of safety-critical information (CE-5)**

- 5.1 The Authority shall provide appropriate facilities, comprehensive and up-to-date technical guidance material and procedures, safety-critical information, tools and equipment, and transportation means, as applicable, to the technical personnel to enable them to perform their safety oversight functions effectively and in accordance with established procedures in a standardized manner.
- 5.2 The Authority shall provide technical guidance to the aviation industry on the implementation of relevant regulations.

**6. Licensing, certification, authorisation and approval obligations (CE-6)**

The Authority shall implement documented processes and procedures to ensure that individuals and organisations performing an aviation activity meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorisation or approval to conduct the relevant aviation activity.

**7. Surveillance obligations (CE-7)**

The Authority shall implement documented surveillance processes, by defining and planning inspections, audits and monitoring activities on a continuous basis, to proactively assure that aviation licence, certificate, authorisation and approval holders continue to meet the established requirements. This includes the surveillance of personnel designated by the Authority to perform safety oversight functions on its behalf.

**8. Resolution of safety issues (CE-8)**

8.1 The Authority shall use a documented process to take appropriate actions, up to and including enforcement measures, to resolve identified safety issues.

8.2 The Authority shall ensure that identified safety issues are resolved in a timely manner through a system which monitors and records progress, including actions taken by individuals and organisations performing an aviation activity in resolving such issues.



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APPENDIX 2

FRAMEWORK FOR A SAFETY MANAGEMENT SYSTEM (SMS)

*Note: In the context of this appendix as it relates to service providers, an “accountability” refers to an “obligation” that may not be delegated, and “responsibilities” refers to functions and activities that may be delegated.*

This Appendix specifies the framework for the implementation and maintenance of an SMS. The framework comprises four components and twelve elements as the minimum requirements for SMS implementation:

1. Safety policy and objectives
  - 1.1 Management commitment
  - 1.2 Safety accountability and responsibilities
  - 1.3 Appointment of key safety personnel
  - 1.4 Coordination of emergency response planning
  - 1.5 SMS documentation
2. Safety risk management
  - 2.1 Hazard identification
  - 2.2 Safety risk assessment and mitigation
3. Safety assurance
  - 3.1 Safety performance monitoring and measurement
  - 3.2 The management of change
  - 3.3 Continuous improvement of the SMS
4. Safety promotion
  - 4.1 Training and education
  - 4.2 Safety communication

**1. Safety policy and objectives**

- 1.1 Management commitment
  - 1.1.1 The service provider shall define its safety policy in accordance with international and national requirements. The safety policy shall:

- (a) reflect organisational commitment regarding safety, including the promotion of a positive safety culture;
- (b) include a clear statement about the provision of the necessary resources for the implementation of the safety policy;
- (c) include safety reporting procedures;
- (d) clearly indicate which types of behaviours are unacceptable related to the service provider's aviation activities and include the circumstances under which disciplinary action would not apply;
- (e) be signed by the accountable executive of the organisation;
- (f) be communicated, with visible endorsement, throughout the organisation; and
- (g) be periodically reviewed to ensure it remains relevant and appropriate to the service provider.

1.1.2 Taking due account of its safety policy, the service provider shall define safety objectives. The safety objectives shall:

- (a) form the basis for safety performance monitoring and measurement as required by 3.1.2;
- (b) reflect the service provider's commitment to maintain or continuously improve the overall effectiveness of the SMS;
- (c) be communicated throughout the organisation; and
- (d) be periodically reviewed to ensure they remain relevant and appropriate to the service provider.

1.2 Safety accountability and responsibilities

The service provider shall:

- (a) identify the accountable executive who, irrespective of other functions, is accountable on behalf of the organisation for the implementation and maintenance of an effective SMS;

- (b) clearly define lines of safety accountability throughout the organisation, including a direct accountability for safety on the part of senior management;
- (c) identify the responsibilities of all members of management, irrespective of other functions, as well as of employees, with respect to the safety performance of the organisation;
- (d) document and communicate safety accountability, responsibilities and authorities throughout the organisation; and
- (e) define the levels of management with authority to make decisions regarding safety risk tolerability.

### 1.3 Appointment of key safety personnel

The service provider shall appoint a safety manager who is responsible for the implementation and maintenance of the SMS.

*Note: Depending on the size of the service provider and the complexity of its aviation products or services, the responsibilities for the implementation and maintenance of the SMS may be assigned to one or more persons, fulfilling the role of safety manager, as their sole function or combined with other duties, provided these do not result in any conflicts of interest.*

### 1.4 Coordination of emergency response planning

The service provider required to establish and maintain an emergency response plan for accidents and incidents in aircraft operations and other aviation emergencies shall ensure that the emergency response plan is properly coordinated with the emergency response plans of those organisations it must interface with during the provision of its products and services.

### 1.5 SMS documentation

#### 1.5.1 The service provider shall develop and maintain an SMS manual that describes its:

- (a) safety policy and objectives;
- (b) SMS requirements;
- (c) SMS processes and procedures; and

(d) accountability, responsibilities and authorities for SMS processes and procedures.

1.5.2 The service provider shall develop and maintain SMS operational records as part of its SMS documentation.

*Note: Depending on the size of the service provider and the complexity of its aviation products or services, the SMS manual and SMS operational records may be in the form of stand-alone documents or may be integrated with other organisational documents (or documentation) maintained by the service provider.*

## **2. Safety risk management**

### 2.1 Hazard identification

2.1.1 The service provider shall develop and maintain a process to identify hazards associated with its aviation products or services.

2.1.2 Hazard identification shall be based on a combination of reactive and proactive methods.

### 2.2 Safety risk assessment and mitigation

The service provider shall develop and maintain a process that ensures analysis, assessment and control of the safety risks associated with identified hazards.

*Note: The process may include predictive methods of safety data analysis.*

## **3. Safety assurance**

### 3.1 Safety performance monitoring and measurement

3.1.1 The service provider shall develop and maintain the means to verify the safety performance of the organisation and to validate the effectiveness of safety risk controls.

*Note: An internal audit process is one means to monitor compliance with safety regulations, the foundation upon which SMS is built, and assess the effectiveness of these safety risk controls and the SMS.*

3.1.2 The service provider's safety performance shall be verified in reference to the safety performance indicators and safety performance targets of the SMS in support of the organisation's safety objectives.

3.2 The management of change

The service provider shall develop and maintain a process to identify changes which may affect the level of safety risk associated with its aviation products or services and to identify and manage the safety risks that may arise from those changes.

3.3 Continuous improvement of the SMS

The service provider shall monitor and assess its SMS processes to maintain or continuously improve the overall effectiveness of the SMS.

**4. Safety promotion**

4.1 Training and education

4.1.1 The service provider shall develop and maintain a safety training programme that ensures that personnel are trained and competent to perform their SMS duties.

4.1.2 The scope of the safety training programme shall be appropriate to each individual's involvement in the SMS.

4.2 Safety communication

The service provider shall develop and maintain a formal means for safety communication that:

- (a) ensures personnel are aware of the SMS to a degree commensurate with their positions;
- (b) conveys safety-critical information;
- (c) explains why particular actions are taken to improve safety; and
- (d) explains why safety procedures are introduced or changed.

## APPENDIX 3

PRINCIPLES FOR THE PROTECTION OF SAFETY DATA, SAFETY  
INFORMATION  
AND RELATED SOURCES

*Note 1: The protection of safety data, safety information and related sources is essential to ensure their continued availability, since the use of safety data and safety information for purposes other than maintaining or improving safety may inhibit the future availability of such data and information, with a significant adverse effect on safety.*

*Note 2: In view of their different legal systems, the Authority has the flexibility to draft their laws and regulations in accordance with their policies and practices.*

*Note 3: The principles contained in this appendix are aimed at assisting the Authority to enact and adopt national laws, regulations and policies to protect safety data and safety information gathered from safety data collection and processing systems (SDCPS), as well as related sources, while allowing for the proper administration of justice and necessary actions for maintaining or improving aviation safety.*

*Note 4: The objective is to ensure the continued availability of safety data and safety information by restricting their use for purposes other than maintaining or improving aviation safety.*

**1. General principles**

1.1 The Authority shall, through national laws, regulations and policies protecting safety data, safety information and related sources, ensure that:

- (a) a balance is struck between the need for the protection of safety data, safety information and related sources to maintain or improve aviation safety, and the need for the proper administration of justice;
- (b) safety data, safety information and related sources are protected in accordance with this appendix;
- (c) the conditions under which safety data, safety information and related sources qualify for protection are specified; and
- (d) safety data and safety information remain available for the purpose of maintaining or improving aviation safety.

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*Note: The protection of safety data, safety information and related sources is not intended to interfere with the proper administration of justice or with maintaining or improving safety.*

- 1.2 When an investigation has been instituted, accident and incident investigation records provided by the Aircraft Accident Investigation Authority shall be subject to the protections accorded therein instead of the protections accorded by this regulation.

## **2. Principles of protection**

- 2.1 The Authority shall ensure that safety data or safety information is not used for:
- (a) disciplinary, civil, administrative and criminal proceedings against employees, operational personnel or organisations;
  - (b) disclosure to the public; or
  - (c) any purposes other than maintaining or improving safety; unless a principle of exception applies.
- 2.2 The Authority shall accord protection to safety data, safety information and related sources by ensuring that:
- (a) the protection is specified based on the nature of safety data and safety information;
  - (b) a formal procedure to provide protection to safety data, safety information and related sources is established;
  - (c) safety data and safety information will not be used in a way different from the purposes for which they were collected, unless a principle of exception applies; and
  - (d) to the extent that a principle of exception applies, the use of safety data and safety information in disciplinary, civil, administrative and criminal proceedings will be carried out only under authoritative safeguards.

*Note 1: The formal procedure may include that any person seeking disclosure of safety data or safety information will provide the justification for its release.*

*Note 2: Authoritative safeguards include legal limitations or restrictions such as protective orders, closed proceedings, in-camera review, and de-identification*

*of data for the use or disclosure of safety information in judicial or administrative proceedings.*

### **3. Principles of exception**

Exceptions to the protection of safety data, safety information and related sources shall only be granted when the competent authority:

- (a) determines that there are facts and circumstances reasonably indicating that the occurrence may have been caused by an act or omission considered, in accordance with national laws, to be conduct constituting gross negligence, wilful misconduct or criminal activity;
- (b) after reviewing the safety data or safety information, determines that its release is necessary for the proper administration of justice, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information; or
- (c) after reviewing the safety data or safety information, determines that its release is necessary for maintaining or improving safety, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information.

*Note 1: In administering the decision, the competent authority takes into account the consent of the source of the safety data and safety information.*

*Note 2: Different competent authorities may be designated for different circumstances. The competent authority could include, but is not limited to, judicial authorities or those otherwise entrusted with aviation responsibilities designated in accordance with national law.*

### **4. Public disclosure**

- 4.1 The Authority that has right-to-know laws shall, in the context of requests made for public disclosure, create exceptions from public disclosure to ensure the continued confidentiality of voluntarily supplied safety data and safety information.

*Note: Laws, regulations and policies commonly referred to as right-to-know laws (freedom-of-information, open records, or sunshine laws) allow for public access to information held by the Authority.*



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- 4.2 Where disclosure is made in accordance with Section 3, the Authority shall ensure that:
- (a) public disclosure of relevant personal information included in the safety data or safety information complies with applicable privacy laws; or
  - (b) public disclosure of the safety data or safety information is made in a de-identified, summarized or aggregate form.

**5. Responsibility of the custodian of safety data and safety information**

The Authority shall ensure that each SDCPS has a designated custodian to apply the protection to safety data and safety information in accordance with applicable provisions of this appendix.

*Note: The “custodian” may refer to an individual or organisation.*

**6. Protection of recorded data**

*Note 1: Ambient workplace recordings required by national laws, for example, cockpit voice recorders (CVRs) or recordings of background communication and the aural environment at air traffic controller work stations may be perceived as constituting an invasion of privacy for operational personnel that other professions are not exposed to.*

*Note 2: Provisions on the protection of flight recorder recordings and recordings from air traffic control units during investigations instituted under ICAO Annex 13 are contained therein. Provisions on the protection of flight recorder recordings during normal operations are contained in the applicable operational regulations. (CAR OPS 1, CAR OPS 3 and CAR OPS 2A).*

- 6.1 The Authority shall, through national laws and regulations, provide specific measures of protection regarding the confidentiality and access by the public to ambient workplace recordings.
- 6.2 The Authority shall, through national laws and regulations, treat ambient workplace recordings required by national laws and regulations as privileged protected data subject to the principles of protection and exception as provided for in this Appendix.