

Civil Aviation (Safety Management Systems) Regulations, 2023

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IT is hereby notified that the Minister of Transport and Infrastructural Development has, in terms of section 79 of the Civil Aviation Act [*Chapter 13:16*], made the following regulations:—

PART I

PRELIMINARY

*Title*

1. These regulations may be cited as Civil Aviation (Safety Management Systems) Regulations, 2023.

*Application*

2. (1) These regulations shall apply to safety management functions related to, or in direct support of the safe operation of aircraft.

(2) Except where otherwise specified, these regulations shall not apply to occupational safety, environmental protection, customer service or product quality.

PART II

SAFETY MANAGEMENT RESPONSIBILITIES

*Safety Oversight System- State Safety Programme (SSP)*

3. (1) The State Safety Programme (SSP) established under the

Act shall be in accordance with the critical elements set out in the First Schedule of these regulations.

(2) The Authority may delegate safety management-related functions and activities to another Contracting State or Regional Safety Oversight Organisation (RSOO) or Regional Accident and Incident Investigation Organisation (RAIO).

*Enforcement policy*

4. The Authority shall, pursuant to the provisions of the Act 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 Authority.

*State System and Functions*

5. (1) The Authority shall implement the state safety programme referred to in section 4, to facilitate the promotion of a positive safety culture in the aviation community.

(2) The state safety programme objectives shall be published and periodically reviewed to ensure that they remain relevant and appropriate to Zimbabwe.

*Qualified Technical Personnel*

6. The requirements for the qualification of technical personnel performing safety-related functions are as specified in Civil Aviation (Air Operator Certification and Administration) Regulations, 2018, published in Statutory Instrument 87 of 2018 and Civil Aviation (Approved Maintenance Organisation) Regulations, 2018, published in Statutory Instrument 77 of 2018.

*Technical Guidance, Tools and Provision of Safety-Critical Information*

7. The Authority shall establish technical guidance and tools and provide safety-critical information through publication of technical guidance material.

*Licensing, Certification, Authorisation and Approval Obligations*

8. The Authority shall implement the licensing, certification, authorisation and approval obligations in accordance with these regulations.

*Safety Management System Obligations*

9. (1) The Authority shall ensure that the following service providers implement an SMS—

- (a) approved training organisations;
- (b) approved operators of aeroplanes or helicopters;
- (c) approved maintenance organisations;
- (d) organisations responsible for the type design or manufacture of aircraft, engines or propellers;
- (e) air traffic services (ATS) providers; and
- (f) operators of aerodromes.

(2) Where maintenance activities are not conducted by an approved maintenance organisation, but under an equivalent system, they shall be included in the scope of the operator's SMS as specified in the Civil Aviation (Operation of Aircraft-General Aviation) Regulations and Civil Aviation (Operation of Aircraft – Commercial Air Transport-Helicopters) Regulations.

(3) The service providers and operators shall establish safety performance indicators and targets that are acceptable to the Authority.

(4) The Authority shall establish criteria for international general aviation operators of large or turbojet aeroplanes registered in Zimbabwe in specified in Operation of Aircraft Regulations, to implement an SMS.

(5) The criteria established by the Authority referred to in subsection (4) shall address the SMS framework and elements contained in the Second Schedule to these regulations.

(6) Every service provider shall be responsible for the safety of services or products contracted or subcontracted to, or purchased from, other organisations.

*Accident and Incident Investigation for Safety Management*

10. The Accident Investigation Unit shall establish a process to investigate accidents and incidents as specified in the Civil Aviation (Accidents and Incidents) Regulations 2018, published in Statutory Instrument 78 of 2018, in support of the management of safety in Zimbabwe.

*Hazard Identification and Safety Risk Assessment*

11. The Authority shall ensure that every service provider complies with the established systems of hazard identification and risk assessment established in terms of these regulations.

*Management of Safety Risks*

12. The Authority shall ensure that every service provider complies with the established systems of management of safety risks and mechanisms for the resolution of safety issues in terms of these regulations.

*State safety assurance*

13. The State safety assurance which the Authority is mandated to ensure that its effected consists of surveillance obligations and state safety performance.

*Surveillance Obligations*

14. (1) The Authority shall meet the surveillance obligations as specified in these regulations.

(2) The surveillance of the service provider shall take into consideration the safety performance as well as the size and complexity of its aviation products or services.

(3) The Authority shall establish procedures to prioritise inspections, audits and surveys towards those areas of greater safety concern or need.

(4) The Authority shall review the safety performance of an individual service provider annually.

*State Safety Performance*

15. The Authority shall—

- (a) establish an Acceptable Level of Safety Performance to be achieved through the SSP;
- (b) develop and maintain a process to evaluate the effectiveness of actions taken to manage safety risks and resolve safety issues;
- (c) evaluate the effectiveness of its SSPs to maintain or continuously improve their overall level of safety performance.

*State safety promotion*

16.(1) The State safety assurance which the Authority is mandated to ensure that its effected consists of internal communication and external dissemination of information.

(2) The Authority shall promote safety awareness and the sharing and exchange of safety information to support, within the Zimbabwe aviation organisations, the development of a positive safety culture that fosters an effective SSP.

(3) The Authority shall 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.

PART III

SAFETY MANAGEMENT SYSTEM (SMS)

*SMS by service providers*

17.(1) The SMS of a service provider shall—

- (a) be established as specified in the framework elements contained in the Second Schedule to these regulations; and
- (b) be commensurate with the size and complexity of the service provider's aviation products or services.

(2) The Authority shall ensure that the service provider develops a plan to facilitate SMS implementation.

(3) The SMS of an approved training organisation, as specified in Part 3 Approved Training Organisation, that is exposed to safety risks related to aircraft operations during the provision of its services shall be made acceptable to the Authority.

(4) The SMS of a certified operator of aeroplanes or helicopters authorised to conduct international commercial air transport, as specified in Operation of Aircraft Regulations shall be made acceptable to the Authority.

(5) The SMS of an approved maintenance organisation providing services to operators of aeroplanes or helicopters engaged in international commercial air transport as specified in Part 8 Operation of Aircraft- Commercial Air Transport (Aeroplanes) Regulations or

Part 9 Operation of Aircraft- Commercial Air Transport (Helicopters) Regulations, shall be made acceptable to the Authority.

(6) The SMS of an organisation responsible for the type design of aircraft, engines or propellers, as specified in Civil Aviation (Airworthiness) Regulations, 2018, published in Statutory Instrument 64 of 2018, shall be made acceptable to the State of Design.

(7) The SMS of an organisation responsible for the manufacture of aircraft, engines or propellers, as specified in Civil Aviation (Airworthiness) Regulations, 2018, published in Statutory Instrument 64 of 2018, shall be made acceptable to the State of Manufacture.

(8) The SMS of an ATS provider, as specified in the Civil Aviation (Aeronautical Telecommunications) Regulations, 2019, published in Statutory Instrument 110 of 2019, shall be made acceptable to the Authority.

(9) The SMS of an operator of a certified aerodrome, as specified in the Civil Aviation (Aerodromes) Regulations, 2018, Statutory Instrument 110 of 2019, shall be made acceptable to the Authority.

#### *International General Aviation – Aeroplanes*

18. (1) An international general aviation operator of large aeroplane or turbojet aeroplane, shall establish and implement a Safety Management System acceptable to the Authority.

(2) The SMS of an international general aviation operator, conducting operations of large or turbojet aeroplanes, as specified in the Operation of Aircraft - General Aviation— (Corporate, Large and Turbojet Aeroplanes) Regulations, shall be commensurate with the size and complexity of the operation and meet the criteria established by the Authority.

### PART IV

#### SAFETY DATA AND SAFETY INFORMATION COLLECTION, ANALYSIS, PROTECTION, SHARING AND EXCHANGE

##### *Safety Data Collection and Processing Systems*

19. (1) The Authority shall establish—

- (a) Safety Data Collection and Processing Systems (SDCPS) to capture, store, aggregate and enable the analysis of safety data and safety information;

- (b) a mandatory safety reporting system that includes the reporting of incidents;
- (c) a voluntary safety reporting system to collect safety data and safety information not captured by mandatory safety reporting systems.

(2) The Authority and the Air Accident Investigation Unit shall have access to the Safety Data Collection and Processing Systems as referred to in subsection (1) to support their safety responsibilities, in accordance with the principles in the Third Schedule to these regulations.

(3) The safety database shall use standardised taxonomy to facilitate safety information sharing and exchange.

*Safety Data and Safety Information Analysis*

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

*Safety Data and Safety Information Protection*

21. (1) The Authority shall accord protection to safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources, such as individuals and organisations, in accordance with the Third Schedule to these regulations.

(2) The Authority shall extend the protection referred to in subsection (1) to safety data captured by, and safety information derived from, mandatory safety reporting system and related sources.

(3) Subject to subsections (1) and (2) the Authority shall not make available or use safety data or safety information collected, stored or analysed as referred to in sections 20 and 21 for purposes other than maintaining or improving safety, unless the competent authority determines, as specified in the Third Schedule to these regulations, that a principle of exception applies.

(4) Notwithstanding subsection (3), 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.



(5) The Authority shall take necessary measures, including the promotion of a positive safety culture, to encourage safety reporting through the systems referred to in section 20(1)(b) and (c).

(6) The Minister shall regularly review and adjust the applicable laws, regulations and policies as necessary to facilitate and promote safety reporting.

*Safety Information Sharing and Exchange*

22. (1) Where 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.

(2) Prior to sharing the information in subsection (1), the Authority shall agree on the level of protection and conditions on which safety information shall be shared and exchanged.

(3) The level of protection and conditions shall be in line with the Third Schedule to these regulations.

(4) The Authority shall promote the establishment of safety information sharing or exchange networks among users of the aviation system and shall facilitate the sharing and exchange of safety information, unless national law provides otherwise.

FIRST SCHEDULE

STATE SAFETY OVERSIGHT (SSO) SYSTEM CRITICAL ELEMENTS (CES)

(See Chapter 3)

*Note 1.— Guidance on the critical elements (CEs) of a system that enables a State to discharge its responsibility for safety oversight is contained in the Safety Oversight Manual, Part A, The Establishment and Management of a State’s Safety Oversight System (Doc 9734).*

*Note 2.— 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 States as separate entities, such as: Civil Aviation Authorities, Airport Authorities, ATS Authorities, Accident Investigation Authority, and Meteorological Authority.*

*Note 3.— 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 State safety management activities.*

*Note 4.— See Appendix 5 to Annex 6, Part I, and Appendix 1 to Annex 6, Part III, for provisions specific to the safety oversight of air operators.*

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

1.1 States 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 State.*

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)**

States 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 States shall establish relevant authorities or agencies, as appropriate, supported by sufficient and qualified personnel and provided with adequate financial resources for the management of safety.

3.2 States authorities or agencies shall have stated safety functions and objectives to fulfil their safety management responsibility.

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

**3.3 Recommendation.—***States 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 States 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 Recommendation. —***States 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.*

*Note.— In addition, Appendix 5 to Annex 6, Part I, and Appendix I to Annex 6, Part III, require the State of the Operator to use such a methodology to deter-*

*mine its inspector staffing requirements. Inspectors are a subset of personnel performing safety oversight functions.*

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

4.1 States 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 States 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 States 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 States shall provide technical guidance to the aviation industry on the implementation of relevant regulations.

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

States 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)**

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

8.2 States 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.

SECOND SCHEDULE

FRAMEWORK FOR A SAFETY MANAGEMENT SYSTEM (SMS)

*Note 1.— Guidance on the implementation of the framework for an SMS is contained in the Safety Management Manual (SMM) (Doc 9859).*

*Note 2.— The service provider’s interfaces with other organizations can make a significant contribution to the safety of its products or services. Guidance on interface management as it relates to SMS is provided in the Safety Management Manual (SMM) (Doc 9859).*

*Note 3.— 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.

*Note.— Guidance on setting safety objectives is provided in the Safety Management Manual (SMM) (Doc 9859).*

## 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 organization, 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 organizations 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 organizational 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 organization 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. Guidance on the scope of the internal audit process is contained in the Safety Management Manual (SMM) (Doc 9859).*

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.

#### THIRD SCHEDULE

#### 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, States have 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 States 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 States 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.

*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 under Annex 13 has been instituted, accident and incident investigation records listed in 5.12 of Annex 13 shall be subject to the protections accorded therein instead of the protections accorded by this Annex.

### ***Principles of protection***

1.3 States shall ensure that safety data or safety information is not used for:

- (a) disciplinary, civil, administrative and criminal proceedings against employees, operational personnel or organizations;
- (b) disclosure to the public; or
- (c) any purposes other than maintaining or improving safety; unless a principle of exception applies.

1.4 States 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.*

## **2. 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; or
- (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.*

## **3. Public disclosure**

3.1 States that have 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 State.*

3.2 Where disclosure is made in accordance with section 3, States 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, summarised or aggregate form.

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

States 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.*

**5. 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 Annex 13 are contained therein. Provisions on the protection of flight recorder recordings during normal operations are contained in Annex 6.*

5.1 States shall, through national laws and regulations, provide specific measures of protection regarding the confidentiality and access by the public to ambient workplace recordings.

5.2 States 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.