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***CIVIL AVIATION
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**ENFORCEMENT MANUAL
ON SAFETY MANAGEMENT SYSTEMS**



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**ENFORCEMENT MANUAL ON SAFETY
MANAGEMENT SYSTEMS**

1. AUTHORISATION

The SACAA Enforcement Manual on Safety Management Systems is a living document. If, as a result of ICAO developments or whenever such a need arise, which may necessitate a review of this Manual, this Manual shall be reviewed and amended accordingly.

This Manual document is applicable with immediate effect.

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2. SCOPE

The South African Civil Aviation Authority's (SACAA) Enforcement Manual on State Safety Programme (Enforcement SSP Manual) is developed in line with ICAO Doc 9859, Annex 19, the South African Civil Aviation Act, 2009 (Act No. 13 of 2009), Regulation 140 and 185 of the South African Civil Aviation Regulations of 2011.

3. PURPOSE

ICAO Annex 19 calls upon States to develop a State Safety Programme relating to enforcement. In line with this requirement we have developed the Enforcement Manual on Safety Management System. The core purpose of the manual is to support and encourage a positive safety culture and reporting without fear of punitive measures. In support of a positive safety culture, the protection of safety information/date and the sources of such information should be assured in order to facilitate continuous flow of safety information. Please refer to ICAO Doc 9859 (4TH amendment).

4. LIST OF DEFINITIONS AND ABBREVIATIONS USED IN THIS DOCUMENT

4.1. Definitions

TERMINOLOGY	DESCRIPTION
Deliberate/reckless actions	Is defined as a conduct by a person who intentionally performs an act so unreasonable and dangerous that he or she knows or should know it is highly probable that harm will result. (Example, flying an aircraft that is not airworthy or not conducting the prescribed aircraft maintenance)
Enforcement	The administrative action taken against any person who has contravened or committed an offence in terms of the Civil Aviation Act, 2009 or the Civil Aviation Regulations, 2011.
Error	An action or inaction by an operational person that leads to deviations from organisational or the operational person's intentions or expectations.
Gross negligence	Is defined as the lack of reasonable care or an extreme departure from what a reasonably careful person would do in the same situation to prevent harm to oneself or to others. (Example, flying an aircraft with insufficient fuel. Failure to file flight plan).
Safety Management Systems	A systematic approach to managing safety, including the necessary organisational structures, accountabilities, policies and procedures.
SMS- Approved Organisations	Means organisations holding licences and privileges approved by the South African Civil Aviation Authority (SACAA).
State Safety Programme	Means an integrated set of regulations and activities aimed at improving safety

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4.2. Abbreviations

ABBREVIATION	MEANING
AMO	Aircraft Maintenance Organisation
AOC	Air Operator Certificate
ATO	Aviation Training Organisation
ATSU	Air Traffic Service Unit
ICAO SARPS	ICAO Standards and Recommended Practices
SACAA	South African Civil Aviation Authority
SMS	Safety Management System
SSP	State Safety Programme

5. REFERENCE DOCUMENTS

Civil Aviation Act, 2009 (Act No. 13 of 2009)

Civil Aviation Regulations, 2011

ICAO Safety Management Manual: Doc 9859

ICAO Annex 19 of the Chicago Convention of 1944

6. ESTABLISHMENT OF SAFETY MANAGEMENT SYSTEMS

- 6.1 In support of the State Safety Programme (SSP), all aviation certificate or approval holders shall establish an SMS that is commensurate with the size, nature and complexity of the operations they are authorised to conduct under their approval or certificate. The certificate or approval holders will maintain and adhere to the aforesaid SMS.
- 6.2 The SACAA has developed an effective enforcement approach in order to support the SSP framework.
- 6.3 To maintain and ensure the implementation of the SMS, SACAA's inspectors shall maintain an open communication channel with the certificate or approval holder's and operators.
- 6.4 SMS is a mandatory safety program for the routine collection and analysis of data. SMS programs provide information about, and insight into, the civil aviation environment. SMS data can provide objective information that is not easily available through other means.
- 6.5 SMS primary purpose is to establish and maintain mandatory and voluntary reporting systems to ensure the timely collection of information relating to potential hazards, incidents and accidents that may adversely affect safety. Its purpose is also to enhance safety by improving training effectiveness, operational procedures, maintenance, engineering procedures and air traffic control procedures.

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7. PROCESS

- 7.1 Contraventions of the Civil Aviation Act and the Regulations shall be investigated and shall be subject to conventional enforcement action if appropriate.
- 7.2 In the SSP environment, a certificate or approval holder can without apportioning blame, investigate and analyse certain deviations internally within the context of their SMS to determine what may have led to the said deviation, to incorporate remedial measures that shall best help prevent recurrence and improve pro-active safety measures.
- 7.3 When a certificate or approval holder under the SMS unintentionally contravenes any procedures, the certificate or approval holder must have an internal process that allows them to deal with and resolve certain deviations internally within the context of the SMS. The certificate or approval holders must keep a register where they will capture information about the deviation and remedial actions taken.
- 7.4 Procedures listed in paragraph 7.3 above, will allow the SACAA's inspectors responsible for the oversight of the certificate or approval holder, the opportunity to engage in dialogue with the SMS-approved organisation. The objectives of this dialogue are to agree on proposed corrective measures and an action plan that adequately addresses the deficiencies that led to the contravention and to afford the certificate or approval holder a reasonable time to implement them.
- 7.5 Any contravention of the provisions of the Act and/or the Regulations may occur for many different reasons. The SACAA has a range of enforcement procedures in order to effectively address safety obligations under the Act and/or the Regulations in light of different circumstances. These procedures may result in a variety of actions, such as, but not mutuality exhaustive, to the following:
- (a) Counselling;
 - (b) Warning;
 - (c) Remedial training;
 - (d) Penalties;
 - (e) Variation, suspension or cancellation of authorisation; or
 - (f) Criminal action.

8. REMEDIAL MEASURES

- 8.1 SMS is designed to be remedial in nature, and its aim is to reduce risk to aviation safety by allowing certificate or approval holders to voluntarily modify their practices, behavior, attitude and skills.
- 8.2 Since SMS is remedial in nature, it can only be accepted where there are certain exceptions being, amongst others, the following:
- a) Mistakes/ errors;
 - b) Non-punitive action; and
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- c) No disciplinary action.
- 8.3 If the corrective measures proposed are considered appropriate and likely to prevent recurrence and foster future compliance, the review of the non-compliance shall then be concluded without further action. In cases where either the corrective measures or the systems in place are considered inappropriate, the SACAA shall continue to interact with the certificate or approval holder to find a satisfactory resolution.
- 8.4 However, in cases where the certificate or approval holder refuses to address and provide effective corrective measures, the SACAA shall consider taking enforcement action or other administrative action deemed appropriate.
- 8.5 The certificate or approval holder will take remedial action in cases where there are errors, deviations and unintentional violations. These actions will be dealt with by the certificate or approval holder through internally established SMS, internal/remedial procedures and policies.

9. ENFORCEMENT POWERS

- 9.1 The SACAA will make enforcement decisions having regard to the nature of the identified contraventions and the level of safety risk posed.
- 9.2 The SACAA shall take enforcement action in cases involving, amongst others. The following:
- a) Gross negligence;
 - b) Deliberate/ reckless actions;
 - c) Willful violations; and
 - d) Repetitive non-compliance or destructive acts that threaten safety.
- 9.3 The certificate or approval holder will take internal remedial action in cases where there are errors, deviations and unintentional violations. These actions will be dealt with by the certificate or approval holder through internally established SMS, internally remedial procedures and policies.

10. SAFETY DATA / INFORMATION PROTECTION

- 10.1 No information obtained from safety data collection and processing systems established under the SMS relating to reports classified as confidential, voluntary or equivalent category shall be used as the basis for enforcement action.
- 10.2 Except for criminal and deliberate acts, the SACAA may not use a certificate or approval holder's SMS data in an enforcement action against that certificate or approved holder or its employees when that data is obtained from a SACAA-approved SMS program.
- 10.3 The SACAA, any certificate or approval holder or any other person shall not make available or use information on occurrences to attribute blame or liability or for any purpose other than the maintenance or

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improvement of aviation safety. However, the SACAA shall not be prevented from taking any action necessary for maintaining or improving aviation safety on its own and outside SMS program.

11. PRINCIPLES OF EXCEPTION

11.1 Exceptions to the protection of safety information shall only be granted when:

11.1.1 there is evidence that the occurrence was caused by an act considered, in accordance with the Act and Regulations, to be conduct with intent to cause damage or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or willful misconduct;

11.1.2 the SACAA considers that circumstances reasonably exist which indicate that the occurrence may have been caused by conduct with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or willful misconduct; or

11.1.3 a review by the SACAA determines that the release of the safety information is necessary for the proper administration of justice, and that its release outweighs the adverse domestic and international impact such release may have on the future availability of safety.

12. IMPARTIALITY OF ENFORCEMENT ACTIONS

12.1 Enforcement decisions must not be influenced by:

- (a) Personal conflict;
- (b) Personal gain;
- (c) Considerations such as gender, race, religion, political views or affiliation; or
- (d) Personal, political or financial power of those involved.

12.2 The SACAA shall ensure that all relevant facts and circumstances peculiar to an individual situation have been fully and fairly considered on their merits and that enforcement decision of similar actions or circumstances are consistent.

12.3 When taking enforcement action, SACAA shall adhere to the adopted regulatory principles:-

- (a) Regulate the aviation industry effectively and efficiently
- (b) Increase accessibility of regulatory services
- (c) Secure financial sustainability
- (d) Accelerate transformation
- (e) Drive organisational efficiency and effectiveness
- (f) Improve communication and stakeholder management
- (g) Significantly improve client service experience

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13. PROPORTIONALITY OF RESPONSES

13.1 Enforcement decisions must be proportional to the identified contraventions and the safety risks they underlie, based on three principles:

- (a) The SACAA shall take action against those who consistently and deliberately operate outside the Act and/or the Regulations.
- (b) The SACAA shall engage certificate or approval holders with the objective to come to an understanding on the proposed corrective measures and an action plan that adequately address the identified safety risks.
- (c) The SACAA shall give due and equitable consideration to distinguish premeditated violations from unintentional errors or deviations.

14. NATURAL JUSTICE AND ACCOUNTABILITY

14.1 Enforcement decisions must:

- (a) Be fair and follow due process;
- (b) Be transparent to those involved;
- (c) Consider the circumstances of the case and the attitude/ actions of the certificate or approval holder of individual when considering action; and
- (d) Be subject to appropriate appeal processes as prescribed in Part 185 of the Regulations.

15. EXCEPTIONS

15.1 This Manual is not applicable if there is evidence of a deliberate effort to conceal non-compliance.

15.2 This Manual is not applicable if the certificate or approval holder fails to maintain an acceptable SMS or its agreed safety performance.

15.3 In the above circumstances, the SACAA may deal with such non-compliance or violations according to established enforcement procedures as deemed appropriate.

16. REVIEW OF THE MANUAL

The Enforcement Manual on Safety Management Systems will be reviewed at least every five years as part of the continuous improvement process or as the need may arise, based on South African Civil Aviation legislation and/or ICAO SARPS and guidance material.

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