

THE PROTECTION OF SAFETY INFORMATION

1 Objective

- 1.1 The objective of these conditions is to ensure the continued availability of safety information by restricting its use for purposes other than maintaining or improving aviation safety.
- 1.2 These conditions are intended to be applied in a manner that is consistent with the standards and recommended practices set out in section 5.3 of Annex 19 (*Safety Management*) to the Chicago Convention.

Note 1 For the purposes of subsection 2A, **safety information** is defined in paragraph 2.7.

Note 2 Guidance on the interpretation and application of these conditions can be found in the Chapter 7 of the 4th edition of the ICAO *Safety Management Manual*.

2 Principles of protection

- 2.1 Unless a principle of exception applies, an operator must not:
 - (a) use safety information, or make safety information available for use, against an employee or operational personnel working under an arrangement with the operator, for punitive, disciplinary or related purposes;
 - (b) disclose or release, publicly or to any person outside the operator's organisation, information constituting or contained in safety information, from which the identity of the person who reported the information, or whose acts or omissions are reflected in the reported information, can be ascertained, unless
 - (i) the disclosure or release is required by law; or
 - (ii) the individual named or identified in the safety information involved has given his or her permission to disclose or release the information.
- 2.2 Nothing in these conditions prevents or restricts an operator from using safety information to inform or direct preventive, corrective or remedial action that is necessary to maintain or improve aviation safety.
- 2.3 Nothing in these conditions prevents an operator from providing safety information to CASA or affects the operation of a notice under regulation 301 of the *Civil Aviation Regulations 1988* to surrender a document containing such information.

3 Principles of exception

- 3.1 An operator may depart from a principle of protection only if the person designated in the operator's SMS for this purpose determines, in accordance with procedures set out in the SMS, that:
 - (a) there are facts and circumstances that reasonably indicate that the occurrence or event reflected in safety information is likely to have been caused by an act or omission constituting gross negligence, recklessness, or wilful and deliberate misconduct; or
 - (b) there are facts and circumstances that reasonably indicate that the occurrence or event reflected in safety information is part of a pattern of repetitive conduct, reflected in acts or omissions involving the same or substantially similar conduct by the same person over a relevant period of time; or

- (c) the release or disclosure of the safety information (as opposed to the use of safety information *by the operator* for the purpose of maintaining or improving aviation safety):
 - (i) is reasonably considered to be necessary for maintaining or improving aviation safety generally; and
 - (ii) the benefits of the release or disclosure of the safety data or information outweigh the adverse effect the release or disclosure is likely to have on the future collection and availability of reported safety data and safety information; and
 - (iii) a person whose identity is likely to be apparent from the nature of the information disclosed or released, or the circumstances in which the information is disclosed or released, consents in writing to the disclosure or release of the information.

4 Action taken to improve or maintain aviation safety is not punitive or disciplinary

- 4.1 Action taken by an operator in accordance with the conditions set out in this Appendix and the corresponding provisions of this Civil Aviation Order, for the demonstrable purpose of maintaining or improving aviation safety, shall not be regarded or characterised as disciplinary or punitive.
- 4.2 Action taken by CASA for the demonstrable purpose of improving or maintaining aviation safety:
 - (a) on the basis of or informed by, safety information provided to or obtained by CASA; and
 - (b) in accordance with CASA Directive 02-0053, Limitations on the Use of Safety Information, shall not be regarded or characterised as disciplinary or punitive.