STATE OF KUWAIT
Directorate General of Civil Aviation

دولة الكويت
الإدارة العامة للطيران المدني

Date : 2021/9/6 التـــاريـخ :

Ref : 2021/239/REG/41 الإشـارة :

REGULATORY CIRCULAR (NO. 2021-13)

Subject:

Notice of Amendment to Kuwait Civil Aviation Safety Regulations KCASR (issue 4).

Purpose:

The purpose of this Regulatory Circular No. **2021-13** is to Amend **KCASR 19 PART 2 STATE SAFETY PROGRAM (SSP)** (issue 4) .

This Regulatory Circular No.**2021-13** is based on (NPA) No. 2021-11 dated on 14/Jun/2021

Revisions:

This amendment will be included in revision (**0**) of KCASR 19 PART 2 STATE SAFETY PROGRAM (SSP).

Regulatory Requirements:

This amendment shall apply to the following Organizations approved by the Directorate General of Civil Aviation (DGCA) or authorized to operate within the State of Kuwait:

1. Approved Maintenance Organizations (AMO) Holders;
2. Air Navigation Service Providers;
3. Air Operator Certificate (AOC) & Private Operator Certificate (POC) Holders;
4. Airport Operators;
5. Ground Handling Service Providers;
6. Flying Training Organizations;
7. All users of KCASRs.

Effective Date:

This new revision will be in effect from **30/Jun/2022**.

Required Action:

All users of KCASR are required to comply with the provisions contained within this amendment from the effective date.

President of Civil Aviation

www.dgca.gov.kw
E-mail: info@dgca.gov.kw

ص.ب : ١٧ الصفاة - الرمز البريدي ١٣٠٠١ دولة الكويت - البدالة ٢٤٣٣٦٦٩٩ (٩٦٥+) - الرد الآلي : ١٦١ (٩٦٥+) - الفاكس : ٢٤٧١٣٥٠٤ (٩٦٥+)
P.O. Box 17 Safat - P. Code 13001 - State of Kuwait - Operator : (+965) 24336699 - IVR : (+965) 161 - Fax : (+965) 24713504

NEWKUWAIT

STATE OF KUWAIT

Directorate General of Civil Aviation

دولة الكويت

الإدارة العامة للطيران المدني

Date : 2021/9/6 التـــاريـخ :

Ref : 2021/240/REG/41 الإشـارة :

All KCASR Stakeholders and Users

Sub.: ***Regulatory Circular No. 2021-13.***
Revision Number 0 to Kuwait Civil Aviation Safety Regulations – KCASR 19 PART 2 STATE SAFETY PROGRAM (SSP).

Dear Sir,

Please find enclosed herewith the regulatory circular No. ***2021-13*** regarding the issuance of ***KCASR 19 PART 2 STATE SAFETY PROGRAM (SSP) Rev. 0***. This is for your information and distribution to all concerned departments.

Up to date KCASR Parts are published on the DGCA/ASD website (https://kcasr.dgca.gov.kw).

If required, the DGCA/Aviation Safety Department personnel are available to answer your questions on the interpretation and intended implementation of the proposed amendments.

KCASR 19 PART 2 STATE SAFETY PROGRAM (SSP) Rev. 0 will be in effect from 30/Jun/2022.

Yours Sincerely,

Abdullah Ali Al-Abdullah Al-Salem Al-Sabah
President of Civil Aviation

President of Civil Aviation.

CC: Director General of Civil Aviation.
Dy. Dir. Gen. Kuwait. Intel. Airport Affairs.
Dy. Dir. Gen. for Air Navigation Services Affairs.
Safety Management Coordination Center (SMCC).
Head of Technical Office.
Civil Aviation Security Department.
Aviation Safety Director.
Air Transport Director.
Inspection & oversight Superintendent.
Head of Standards & Aviation Safety Regulations Division.

www.dgca.gov.kw
E-mail: info@dgca.gov.kw

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الطيران المدني
Civil Aviation
State of Kuwait - دولة الكويت

Kuwait Civil Aviation Safety Regulations

KCASR 19 PART 2
STATE SAFETY PROGRAM (SSP)

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Amendment Record

Amendment No	Date of Issue	Remarks
0 (New)	Sep 2021	Introduction of Par 2 (SSP) to KCASR 19

Control of this Document

DC.1 Introduction

DC.1.1 Pursuant to Law No (30) of the year 1960 and subsequent Ministerial Decisions No (18) of the year 1996, based upon that Law, the President of the Kuwait Directorate General of Civil Aviation is empowered to adopt and amend Kuwait Civil Aviation Safety Regulations. In accordance herewith, the following Regulation is hereby established for compliance by all persons concerned. This regulation shall be known as KCASR 19 Safety Management and any reference to this title shall mean referring to these regulations governing the basic requirements to be met for civil aviation in the State of Kuwait.

DC.2 Authority for this Regulation

DC.2.1 This KCASR 19 Safety Management is issued on the authority of the President of the Kuwait Directorate General of Civil Aviation.

DC.3 Applicability

DC.3.1 This KCASR 19 Safety Management is applicable to the aviation industry of the State of Kuwait.

DC.4 Scope

DC.4.1 KCASR 19 Safety Management contains the SMS and SSP regulations of the State of Kuwait, and shows compliance with ICAO Annex 19.

DC.5 Definitions

DC.5.1 Terms not defined shall have the meaning given to them in the relevant legal instruments or international legal instruments in which they appear, especially as they appear in the Convention and its Annexes.

1. DEFINITIONS

When the following terms are used in regulation for Safety Management, they have the following meanings:

Accident. An occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which:

- A person is fatally or seriously injured as a result of:
- being in the aircraft, or
- direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
- direct exposure to jet blast,

Except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

- The aircraft sustains damage or structural failure which:
- adversely affects the structural strength, performance or flight characteristics of the aircraft, and
- would normally require major repair or replacement of the affected component,

Except for engine failure or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

- The aircraft is missing or is completely inaccessible.

Note 1. *For statistical uniformity only, an injury resulting in death within thirty days of the date of the accident is classified, by ICAO, as a fatal injury.*

Note 2. *An aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located.*

Note 3. *The type of unmanned aircraft system to be investigated is addressed in 5.1.3 of KCASR 13.*

Note 4. *Guidance for the determination of aircraft damage can be found in Attachment (E) of KCASR 13.*

Aeroplane. A power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight.

Aircraft. Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface.

Hazard. A condition or an object with the potential to cause or contribute to an aircraft incident or accident.

Helicopter. A heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes.

Incident. An occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation.

Note. — The types of incidents which are of interest for safety-related studies include the incidents listed in KCASR 13, Attachment (C).

Industry codes of practice. Guidance material developed by an industry body, for a particular sector of the aviation industry to comply with the requirements of Kuwait DGCA and Kuwait KCASRs, other aviation safety requirements and the best practices deemed appropriate.

Operational personnel. Personnel involved in aviation activities who are in a position to report safety information.

Note. *Such personnel include, but are not limited to: flight crews; air traffic controllers; aeronautical station operators; maintenance Engineers, technicians; personnel of aircraft design and manufacturing organizations; cabin crews; flight dispatchers, apron personnel and ground handling personnel.*

Safety. The state in which risks associated with aviation activities, related to, or in direct support of the operation of aircraft, are reduced and controlled to an acceptable level.
Safety data. A defined set of facts or set of safety values collected from various aviation-related sources, which is used to maintain or improve safety.

Note. *Such safety data is collected from proactive or reactive safety-related activities, including but not limited to:*

a) Accident or incident investigations;
b) Safety reporting;
c) Continuing airworthiness reporting;
d) Operational performance monitoring;
e) Inspections, audits, surveys; or
f) Safety studies and reviews.

Safety information. Safety data processed, organized or analysed in a given context so as to make it useful for safety management purposes.

Safety management system (SMS). A systematic approach to managing safety, including the necessary organizational structures, accountability, responsibilities, policies and procedures.

Safety oversight. A function performed by a State to ensure that individuals and organizations performing an aviation activity comply with safety-related national laws and regulations.

Safety performance. A State or a service provider's safety achievement as defined by its safety performance targets and safety performance indicators.

Safety performance indicator. A data-based parameter used for monitoring and assessing safety performance.

Safety performance target. The State or service provider's planned or intended target for a safety performance indicator over a given period that aligns with the safety objectives.

Safety risk. The predicted probability and severity of the consequences or outcomes of a hazard.

Serious injury. An injury which is sustained by a person in an accident and which:

a) Requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received; or
b) Results in a fracture of any bone (except simple fractures of fingers, toes or nose); or
c) Involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or
d) Involves injury to any internal organ; or
e) Involves second- or third-degree burns, or any burns affecting more than 5 per cent of the body surface; or
f) Involves verified exposure to infectious substances or injurious radiation.

State of Design. The State having jurisdiction over the organization responsible for the type design.

State of Manufacture. The State having jurisdiction over the organization responsible for the final assembly of the aircraft.

State of the Operator. The State in which the operator's principal place of business is located or, if there is no such place of business, the operator's permanent residence.

State safety programme (SSP). An integrated set of regulations and activities aimed at improving safety.

Surveillance. The State activities through which the State proactively verifies through inspections and audits that aviation licence, certificate, authorization or approval holders continue to meet the established requirements and function at the level of competency and safety required by the State.

2. ABBREVIATIONS

(Used in this KCASR)

ADREP	Accident/incident data reporting
GASP	Global Aviation Safety Plan
NASP	National Aviation Safety Plan
RASG	Regional Aviation safety Group
RASP	Regional Aviation Safety Plan
SARPS	Standards and Recommended Practices
SDCPS	Safety data collection and processing systems
SMM	Safety management manual
SMS	Safety management system
SSO	State safety oversight
SSP	State safety programme
SSR	State Safety and Reporting Division

3. General

3.1 Forward

The objective of this Regulation is to introduce the State of Kuwait Safety Program (SSP) to reassure our sincere efforts towards improving safety of the air transportation system. Keeping with the provisions of ICAO's safety management, this regulation explains the methodology that the State of Kuwait civil aviation authority will follow to administer the SSP, particularly defining the major components and elements of the framework required to implement the programme.
In future, this regulation will be reviewed and if necessary, amendments shall be made in light of forthcoming ICAO ANNEX 19 or any issue realized in the process of development and implementation of the programme. And shall also be used to guide the development of the NASP.

4. State Safety Program (SSP)

SSP is defined as a systematic approach to managing safety risks. It is a management system for the regulation and administration of safety by the State of Kuwait. It includes integrated set of regulation and activities aimed at improving safety.

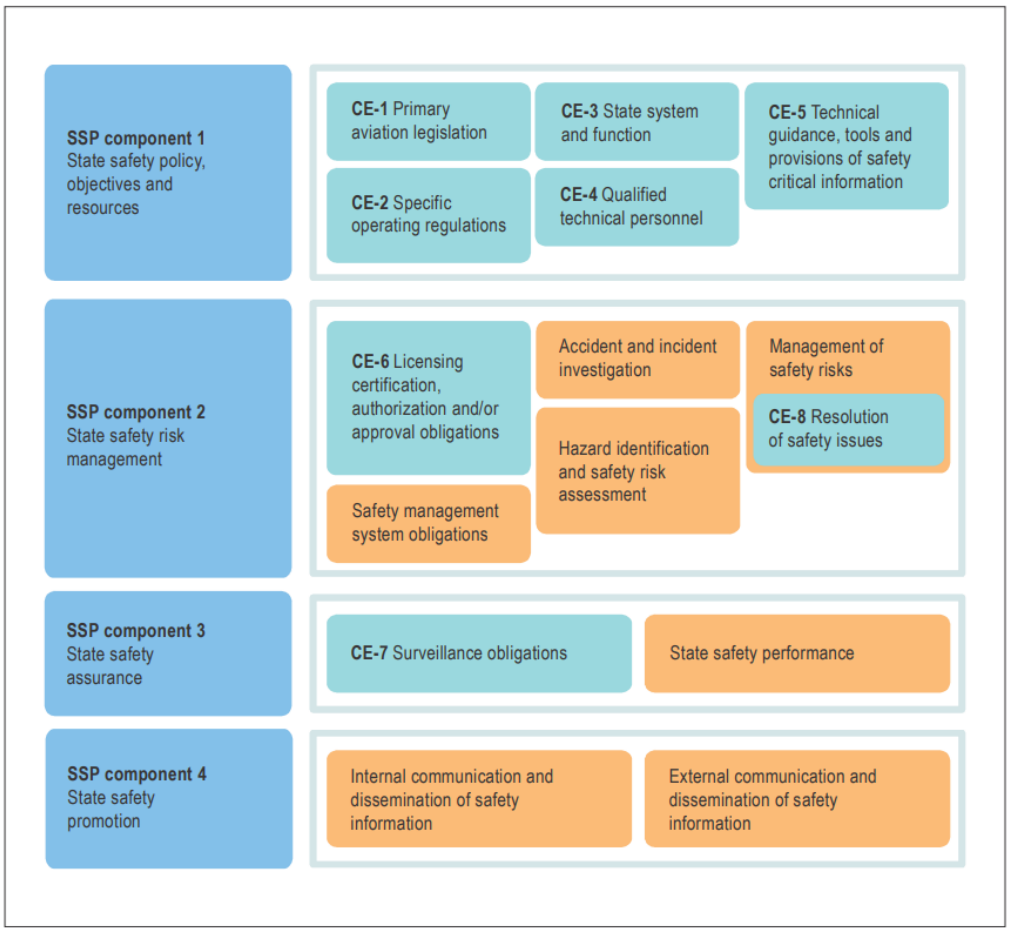
Since the service providers' role in achieving safety is of paramount importance, the State of Kuwait believes in partnership with service providers in order to achieve the Programmer's ultimate goal, which is the achievement of acceptable level of safety performance in the civil aviation system by creating and protecting a safety value. It must work hand in hand with the service providers' safety management systems.

State of Kuwait SSP shall process the related safety requirements built into their design.
State of Kuwait SSP shall provide the necessary considerations to:

- **Responsibility:** accountable for quality of activities.
- **Authority:** power to accomplish required activities.
- **Procedures:** clear instructions for members of the state organizations.
- **Controls:** supervisory controls on processes to ensure activities produce the correct output.

There are four components that form the fundamentals of an SSP. Each component is subdivided into elements that comprise the processes or activities undertaken by the State of Kuwait to manage safety. The elements combine prescriptive and performance-based approach and support the implementation of SMS by service providers.

The following chart shows how the system components are linked together:



The following paragraphs outline the details of the components for State of Kuwait SSP.

4.1 State Safety Policy and Objective

4.1.1 State Safety Legislative Framework.

State of Kuwait shall promulgate a national safety legislative framework and specific regulation, in compliance with international and national standards, that define how the State will conduct the management of safety in the State.

The following items provide a general explanation of the flow processes included in the State of Kuwait SSP:

Safety data collection & Voluntary reporting system, this shall be fed into the safety data collection system and shall be supported by the state safety policy which ensures a firm and fair enforcement to encourage a reporting culture.

a. Audit reports shall be collected in the safety data collection system

b. The safety data shall be collected and analyzed. Analysis results should be compared with global and regional trends and statistics for benchmarking.

c. Individual safety data should initially assess by the coordination group or Safety Management and Reporting (SMR) division and further forwarded to functional divisions for appropriate regulatory response if required.

d. Safety data analyzed periodically shall be addressed by the SMR division in coordination with functional areas from the analysis and shall be reflected on the regulation, policies, guidance materials, procedures, safety promotion activities, training activities, ALOSP, safety performance targets of individual service providers, surveillance activities and the legislations, as appropriate.

e. Appropriate enforcement actions shall be taken if the analysis of the data reveals any situation requiring enforcement actions in accordance with the constraints laid down in the Enforcement Policy.

f. The safety performance of individual service providers shall be periodically assessed, through the data analysis to ensure the State's ALOSP is maintained.

As this regulation is a high-level document, SSP processes are covered in broad terms. Detailed processes should be found in the functional divisions internal policies and procedures.

The following paragraphs explain the methodology Kuwait DGCA should follow to establish and implement the SSP components and their elements.

The Civil Aviation Law applies to:

I. Civil aviation in the territory of the State of Kuwait;
II. Civil aircraft registered in the state of Kuwait
III. Civil airports in the State of Kuwait including all technical activities such as air traffic control and the installation, operation and maintenance of communication equipment, radio equipment, navigation aids, meteorology, etc.; and air transport in general.

In accordance with ministerial resolution NO. 18 of year 1996 concerning Kuwait civil aviation safety regulations (KCASRs), Kuwait DGCA is the competent authority authorized to develop and implement regulation related to all ICAO standards and recommendations outlined in its Annexes.

The KCASRs are published on the ASD website and are continuously amended and updated depending on:

a) Changes to ICAO Standards and Recommended Practices
b) Operational requirements and civil aviation industry growth and complexity

c) Safety recommendations arising from global or local incidents/accidents, safety reports, trends and analysis as well as audit report analysis and (RASG). In this regard, Kuwait DGCA views the regulation as risk control.
d) Legal requirements. Though the main intent of the regulation is to be used as a risk control, there are some regulations which are purely based on legal grounds rather than safety reasons. The DGCA does incorporate these legal requirements in its regulation when such requirements are mandated by the Law or whenever deemed necessary.
e) Best international practices. Kuwait DGCA constantly monitors changes to international standards and practices and adopts those standards that will add value to Kuwait DGCA regulatory framework.

In addition to the KCASR, Kuwait DGCA shall publishe the following regulatory guidance materials:

a) Operational Directives (DIRs).
b) Airworthiness Directives
c) Civil Aviation Safety Publications (CASPs).
d) Safety Bulletins (SBs).
e) Acceptable Means of Compliance (AMCs) contained in some of the Regulation.
f) Guild Materials (GMs)
g) National Aviation Safety Plan (NASP)

Kuwait DGCA shall have a process in place to consult new or amended regulation with the service providers, especially in cases where amendments to regulation have a significant impact. The Authority does consider the comments/feedback it receives from the aviation stakeholders and publishes the response to these comments on the website.

4.1.2 State Safety Policy Statement

keeping with State of Kuwait civil aviation regulatory framework and international safety

recommendations, standards and best practices, DGCA shall undertake the following action(s):

a) Set regulatory standards that are in line with ICAO requirements.

b) Establish a framework required for informed & risk-based decisions on safety issues.

c) Establish a process by which there is hazard identification, analysis and risk management at State Level.

d) Oversee the establishment of the safety management system within the service providers.

e) Promote and foster safe practices at state and industry level.

f) Ensure that sufficient funds are allocated to achieve the program goals, and ensure that skilled and trained human resources are available to discharge their responsibilities.

g) Build partnership with aviation industry to resolve safety concerns.

h) Monitor industry performance and the State performance under the SSP, and accordingly take appropriate actions.

i) Establish an enforcement policy that will ensure protection of safety data collection and processing systems.

In support of the above major policy statements, the State of Kuwait shall adopt the followings steps to:

a) Develop general rulemaking and specific operational policies that build upon safety management principles within service providers as per the ICAO requirements

b) Consult with all segments of the aviation industry on issues regarding regulatory development;

c) Support the management of safety for the State through an effective safety reporting and communication system;

d) Interact effectively with service providers in the resolution of safety concerns;

e) Ensure that within the DGCA as well as the other state aviation organizations, sufficient resources are allocated; personnel have the proper skills and are trained for discharging their responsibilities, both safety related and otherwise.

f) Conduct both performance-based and compliance-based oversight activities, supported by analysis and prioritized resource allocation based on safety risks;

g) Comply with and, wherever possible, exceed international safety requirements and standards;

h) Promote and educate the aviation industry on safety management concepts and principles;

i) Oversee the implementation of SMS within aviation organisations;

j) Ensure that all activities under oversight achieve the highest safety standards;

k) Establish an enforcement policy that will ensure protection of safety data, collection and processing systems (SDCPS), so that people are encouraged to provide essential safety-related information on hazards, and there is a continuous flow and exchange of safety management data between the State of Kuwait and service providers;

l) develop and keep up to date the National Aviation Safety Plane (NASP).

4.2 State Safety Responsibilities and Accountabilities

The DGCA ASD is the Competent Civil Aviation Authority of the State of Kuwait. The ASD is responsible for setting policies, regulating, and monitoring civil aviation activities in the State of Kuwait. It is also the entity responsible for certification and licensing of the service providers and concerned individuals.

The DGCA has its own Air Navigation Service Provider which controls State of Kuwait airspace movements.

I. The Primary Responsibilities of the DGCA ASD

The responsibilities are as follows:

a) Promulgating and disseminating aviation safety regulation to ensure, as practically possible, fulfillment of ICAO Annexes requirements;

b) Safety oversight, auditing and surveillance on aviation activities in the State of Kuwait territory, as well as overseas activities conducted by State of Kuwait approved organizations.

c) Issuing certificates, licenses, authorizations to civil aviation service providers and persons regulated by the DGCA.

d) Control aircraft registry and associated legal documentation.

e) Identifying areas of safety concerns through continuous monitoring of safety trends and service providers safety performance.

f) Taking appropriate actions to resolve safety concerns and following up on the results of these actions.

g) Take appropriate enforcement action against violations of civil aviation safety within the boundaries of the Enforcement Policy and the Civil Aviation Law articles.

h) Monitoring the developments in the global civil aviation arena to ensure that the ASD is abreast with the latest developments and best practices

i) Monitoring global and regional safety trends and accident rates in order to take preventive measures.

j) Through its Air Accident Investigation Sector, investigating accidents and serious incidents in accordance with KCASR 13 (ICAO Annex 13) requirements and the applicable Civil Aviation Regulation in order to make recommendations to prevent future re-occurrence.

k) Provide internal and external training, conduct seminars and workshops to achieve better understanding, develop skills and enhance awareness among the industry as well as the Authority personnel

l) Develop and manage the implementation of SSP and co-ordinate its activities.

m) Develop the (NASP)

II. DGCA ASD divisions

ASD implements the highest international safety standards to cope with the development, challenges and expansion and to ensure effective compliance with the international obligations. ASD is responsible for overseeing the functions of:

- STANDARDS AND REGULATIONS
- FLIGHT OPERATIONS
- AIRWORTHINESS
- PERSONNEL LICENSING
- AERODROME CERTIFICATION
- AIR NAVIGATION SERVICES
- SSP

4.2.1 State Aviation Enforcement Standard

I. Introduction

The purpose of the DGCA enforcement program is to promote compliance with aviation regulation in the State of Kuwait and in the international airspace under the State of Kuwait's jurisdiction. As a contracting State of the International Civil Aviation Organization (ICAO), the State of Kuwait has an obligation to oversee the safe operation of all aviation activities for which it is responsible.

The State of Kuwait has agreed to the application of Article 12 of the ICAO Convention, Rules of the Air, which simply directs that each contracting State adopt measures to ensure that every aircraft flying over or maneuvering within its territory and every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulation.

In addition, each State should undertake to ensure that persons violating the applicable regulation.

The enforcement standard establishes the conditions and circumstances under which to deal with violations to the Civil Aviation Law, regulation and standards through established enforcement procedures.

II. Applicability

This document applies to all DGCA internal and external stakeholders involved in the Enforcement Programme.

III. Principles

This enforcement standard is the culmination of a comprehensive review by the State of Kuwait DGCA of its capacity and regulation for evaluating safety activities by service providers.

The implementation of safety management systems (SMS) in support of State Safety Programme (SSP) requires the DGCA to develop a flexible enforcement approach to this evolving safety framework while at the same time carrying out enforcement functions in an equitable, practical and consistent manner. A flexible enforcement approach in an SMS environment should be based on two principles.

- The first general principle is to develop enforcement procedures that allow service providers to deal with, and resolve certain events concerning contraventions to the Civil Aviation Law, regulation and standards, internally, within the context of the service provider's SMS, and to the satisfaction of the Authority. Any willful contraventions of the State of Kuwait Civil Aviation Law or the State of Kuwait Civil Aviation Regulation which are not minor in nature shall be investigated by a DGCA ASD delegated official and may be subject to conventional enforcement action if appropriate. Criminal offences, whether specifically stated in the Civil Aviation Law

- The second general principle is that no information derived from safety data collection and processing systems (SDCPS) established under SMS shall be used as the basis for enforcement action, unless wider safety interests are to be considered.

IV. Authority

The State of Kuwait Civil Aviation Law, the DGCA Civil Aviation Regulation, has legislated matters concerning civil aviation safety.

the Civil Aviation Law empower the DGCA to take enforcement action in respect of contraventions to the law. specifically gives power to the Competent Authority (DGCA) to revoke or suspend authorisations where deemed necessary to preserve the safety of aviation operations.

There are two types of Offence Creating Provisions:

first, those that mandate a certain form of conduct and, second, those which prohibit certain conduct. Non-compliance with these provisions is a contravention that can result in a judicial or administrative action.

The principles underlying this enforcement Standard statement and associated enforcement procedures apply to the service providers as defined

V. DGCA Responsibility

In keeping with the requirements of State Safety Program (SSP), DGCA ASD is responsible for developing standards to implement enforcement program.

VI. Aviation Enforcement Philosophy

DGCA's aviation enforcement philosophy recognizes the fact that 'voluntary compliance' with the regulation is the most effective approach to achieving aviation safety. It is assumed that most people are rational, responsible, law abiding persons in their own right and self-interest, and share an interest and commitment to the aviation community. However, in reality, service providers may sometimes fail to comply with laws, regulation and standards for various reasons and consequently, they may become the focus for enforcement action in the interest of safety. When voluntary compliance is not forthcoming, enforcement action becomes necessary to promote safety.

VII. Standard Statement

The following standard applies to both SMS and non-SMS compliant service provider.
In support of DGCA's mandate to regulate aviation safety, the DGCA ASD shall ensure that two key elements are

a) Ensuring Fairness:

Specific courses of action have been established to ensure fairness in the enforcement process and consistency in the selection of the appropriate deterrent. These actions include:

i. Provision of 'oral counseling' for minor violations where there is no threat to aviation safety;

ii. Informing offenders of their statutory right to appeal to the next higher authority as well as DGCA management for administrative cases.

iii. Encouraging open communication between alleged offenders and enforcement inspectors, especially in cases where there may be mitigating circumstances.

iv. In certain cases, and subject to risk assessment, allowing alleged offenders the opportunity to comply within an allowable timeframe.

b) Ensuring Firmness:

the enforcement process firmness is essential when responding to repeated or premeditated actions by individuals displaying willful and flagrant disregard of the air regulation, or evident incompetency, thus jeopardizing aviation safety. The enforcement process should be transparent and act as an example to others thereby creating a deterrent component.

In executing enforcement powers, the DGCA or service provider shall ensure that these powers do not hinder the flow of safety data in order to manage risks and promote aviation safety.

Since DGCA and the aviation industry sets out to implement Safety Management Systems (SMS), DGCA shall be proactive in developing a flexible enforcement approach to this evolving safety framework. This standard will provide a means of promoting voluntary compliance with regulatory requirements, without necessarily resorting to punitive action by DGCA.

This can be achieved by providing service providers with the opportunity to determine, by themselves, proposed corrective measures to prevent recurrence of a minor contravention, as well as the best course of action to help foster future compliance.

VIII. DGCA Enforcement Actions

The main objectives of enforcement (deterrent) actions are to:

a) Protect the public and the individuals from harm.

b) Encourage aviation industry for future compliance to the regulation and standards.

c) Deter others from contravening the legislation.

In the event of any incident involving violation of indictable offence creating provisions of the Civil Aviation Law or regulations which is not committed willfully and having no immediate impact on safety or has not resulted in damage to people or property, and also not considered a criminal act under State of Kuwait, DGCA may deal with such case administratively as per established enforcement procedures.

While making any determination for an enforcement case, the following considerations shall be given:

a) Natural Justice and Accountability

Enforcement decisions must be:

i. Fair and follow due process.

ii. Transparent to those involved.

iii. Consistent as between like circumstances, and

iv. Always subject to appropriate internal and external review.

b) Impartiality

Enforcement actions must not be influenced by:

i. Personal conflicts or agendas.

ii. Irrelevant considerations, such as gender, race, religion, political views or affiliation; or

iii. Personal, political or financial power of those involved.

c) Proportionality

Enforcement decisions must be commensurate with the identified breaches and the safety risk they give rise to, in particular:

i. DGCA's first priority shall be to protect the safety of the members of the public including fare-paying passengers.

ii. DGCA shall take strong action against those who consistently (repeatedly) and deliberately operate outside the existing Law, regulation and approved Procedures and have significant impact on safety. Unless such violations are detected by DGCA-ASD officials, the service provider shall immediately notify DGCA-ASD for further investigation as necessary.

iii. DGCA or service provider shall endeavor to educate and promote training or supervision of those who are observed to be lacking in proficiency but are willing to comply.

iv. In the interest of safety, where there is a minor violation committed by the alleged offender, DGCA may send a letter of warning.

d) DGCA will require, as a minimum, that the three following criteria be met before this enforcement standard is applied to SMS compliant service provider:

i. The Service Provider has an internal reporting programme supported and promoted by the management;

ii. The Service Provider has a reactive event analysis process adequate for determining root causes and developing corrective measures;

iii. The information derived from the programme referred to in (d), (i) and the process referred to in paragraph (d), (ii) is communicated upon request to Kuwait DGCA.

IX. When is enforcement action taken by DGCA:

in order to ensure compliance to the regulation and standards, DGCA has various options for selecting the appropriate enforcement action as part of deterrent action. It is important at this juncture to make the distinction between an 'error' and a 'violation';

a) **An error** in this context is considered to be an unintended action caused by a slip or lapse which results from a failure in the execution and/or memory stage of an action sequence or a requirement prompting a deviation from procedure, regulation or law.

b) **A violation** is considered to be a deliberate and intentional deviation from procedure, regulation or law and can represent a significant threat to safety as systems are designed assuming people will follow procedures. Safety information that is concealed from the DGCA will also be considered as a violation.

In view of the above, appropriate decision has to be taken to confirm any violation.

The detection of an alleged violation of the Civil Aviation Law or the Civil Aviation Regulation may result from a complaint made by the public, a routine inspection conducted by the DGCA or observations by DGCA Inspectors engaged in field operations. If a violation is considered to be a minor non-compliance with the regulation, inadvertent, or a safety related one where there is no direct impact on flight safety, the DGCA may simply counsel the individual orally.

X. Enforcement action may only be used to

a) Compel a person or a Service Provider to comply with specified legislative or regulatory requirements, which in many cases involve no more than conducting their aviation related activities at a minimally acceptable level of safety; or

b) Limit, constrain or prevent a person or a Service Provider, who is demonstrably unable and/or unwilling to comply with specified legislative requirements, from continuing to conduct the aviation related activities; or

c) Initiate action whereby a court may decide that a person or a Service Provider deserves to be penalized for having conducted an aviation related activity in breach of an explicit legislative requirement.

XI. Corrective Measures by SMS Compliant Service Provider

Kuwait DGCA (ASD) shall evaluate the corrective measures proposed by the service provider, and/or the systems currently in place to address the event underlying the violation. If the corrective measures proposed are considered appropriate and likely to prevent recurrence and foster future compliance, the review of the violation will then be concluded with no enforcement action. In cases where either the corrective measures or the systems in place are considered inappropriate, Kuwait DGCA will continue to interact with the service provider to find a satisfactory resolution that would prevent enforcement action. However, in cases where the alleged offender or the service provider refuses to address the event and provide effective corrective measures, Kuwait DGCA will consider taking enforcement action or other administrative action.

In the event of these violations, the service provider shall immediately notify Kuwait DGCA (ASD).

Notwithstanding the above, should there be any incident involving violation of indictable offence outlined in the Civil Aviation Law, which is not committed willfully with no immediate impact on safety of person or equipment, has not resulted in damage to people or property, Kuwait DGCA may deal with such case administratively as per established enforcement procedures.

4.2.2 Enforcement Process

The major elements of Kuwait DGCA enforcement process:

I. Prevention

a. To reduce violations and promote voluntary compliance achieved through education, licensing and certification, surveillance, publicity, consultation with industry, routine inspections and field operations.

II. Detection

a. Identification of violations resulting from routine inspections, field operations, and police reports, aircraft accident investigations, public complaints.

b. A service provider may detect violation through established voluntary reporting system (non- punitive).

III. Investigation

a. An investigation is a systematic search for documentation of the facts relevant to an event. All investigations must be thoroughly completed as per procedures outlined in Kuwait DGCA Enforcement Regulation since outcome may affect both individual rights and public safety.

IV. Deterrent Action

a. The most important decision in the enforcement process is determining the deterrent action to be taken when there is evidence that a violation of the rules has been committed. Such action must address the seriousness of the incident in relation to aviation safety and actions must commensurate with other judgments for the same offence in similar circumstances.

b. SMS compliant service provider may take non-punitive actions for minor violations, or violations which have been voluntarily reported and has no immediate impact on safety, and that are not related to a punishable criminal offence under State of Kuwait laws.

Further to the above enforcement process and standard outlined in this document, DGCA Policy, ASD has developed detailed regulation which are outlined in the DGCA Enforcement Regulation KCASR 26.

In future, DGCA may issue guidance on the implantation of State Aviation Enforcement Standard in an SMS environment as necessary.

5. STATE SAFETY RISK MANAGEMENT

In support of SSP, the DGCA ASD is responsible for State safety risk management activities. However, air operators and organizations regulated under relevant KCASRs and KCASR 19 PART 1 requirements, may also carry out their own risk management activities as part of their SMS plan.

5.1 Safety Requirements for the Service Provider's SMS

In accordance with the International Standards and Recommended Practices (SARPs) contained in Annex 1 — Personnel Licensing, Annex 6 — Operation of Aircraft, Annex 8 — Airworthiness of Aircraft, Annex 11 — Air Traffic Services, and Annex 14 — Aerodromes, the DGCA promulgated its SMS regulation in relevant KCASRs and KCASR 19 (Part 1).

relevant KCASRs and KCASR 19 PART 1 lays down the SMS requirements for a service provider with guidance material issued to guide the industry on the implementation process and the method of regulatory acceptance of the SMS.

These requirements shall be in line with ICAO Doc. 9859 guidelines which require the Service providers to establish and maintain SMS.

The phases of regulatory SMS acceptance methodology are detailed in relevant KCASRs and KCASR 19 (Part 1).

The relevant regulation, processes and internal procedures are continuously being refined, enhanced and developed to achieve a more effective SMS on the Service Providers' side as well as a more effective regulatory oversight from the DGCA side.

5.2 Agreement on the Service Provider's Safety Performance.

For the purpose of achieving a State Level Initial Acceptable Level of Safety Performance (ALOSP) and, later on, Mature ALOSP, an agreement shall be concluded between the DGCA and the Service Providers on their Safety Performance for the coming year.

KCASR	Service Provider	Applicability Date	SMS Implementation Status
11	Air Traffic Service Providers		√
14	Certified Aerodromes		√
6	Aircraft Operators & AMOs		Under Audits
1	Approved Training Organisation		√
8	Design/Manufacturers		-



The safety performance indicators of service providers and their corresponding targets:

I. Shall depend on the major areas of safety concern resulting from the analysis of the available safety data like the Safety Incidents/Accident Reports submitted to DGCA through a system platform, audit reports as well as through any other suitable/reliable source of gathering safety information within the service provides organizational structure.

II. Where possible, will be related to the ALOSP declared by the State.

III. Were realistic, the targets will not be less than the previous year's figures for the particular Service Provider.

IV. Should commensurate with the size, complexity and capabilities of the Service Provider.

V. Should not result in avoidable financial burden provided the indicators are in in compliance to the State ALOSP.

VI. Will be relevant to service provider's categories that have enough safety data to establish safety indicators, for example: Commercial Air Transport Operators, Aerodromes and ATC. Service providers with insufficient data or lack of historical details will be encouraged and supported to build their data base for subsequent participation in SPIs and SPTs.

VII. Will identify the safety risk controls to ensure the agreed targets are met. These may be additional or changed procedures, new supervisory controls, changes to training, additional or modified equipment, or any number of other elimination/mitigation alternatives.

VIII. Will provide stimulus for the State to consider the changes that may require to be embodied in the regulation to ensure they act as risk controls.

IX. Action Plans for achievement of safety performance targets will be agreed by the end of each year between the service provider and the DGCA ASD

X. Will be continuously followed-up DGCA ASD, and will be reviewed after 6 months from the beginning of the agreement in order to spot any abnormal trends that may cause a breach to the safety targets or alert levels.

6. THE STATE SAFETY ASSURANCE

The State Safety Assurance is accomplished through oversight and surveillance activities of service providers as well as the State ‘s internal review of its regulatory and administrative processes.

In order to complete the safety management cycle, Safety risk management requires feedback on safety performance of the service providers. In addition, safety assurance provides stakeholders an indication of the level of safety performance of the system.

6.1 Safety Oversight

State Level Safety Assurance involves:

I. Assurance of SSP functions: The various division of the DGCA ASD that are involved in the SSP are subject to internal reviews performed by superintendents

II. review board headed by the Accountable executive and ASD departments and other related members will convene once in a year to review last year’s analysis reports and make appropriate decisions.

III. Measurement of aggregate safety performance at State level.

The DGCA, based on the:

I. Safety data analysis and trends should be gathered from a system platform, Voluntary Occurrence; reports, accidents reports, hazard reports;

II. Internal/external review /audit analysis reports as generated;

III. Aviation safety reports gathered at a global level; (GASP)

IV. RASG reports and recommendations (RASP);

V. Safety performance measurements of Service Providers;

VI. Will analyze the data and submit its recommendation to the SSP coordination group or SSO divisions, Furthermore, after review of the above data, DGCA ASD will establish ALOSP, the success of which is considered as an indication of the effectiveness of SSP.

6.2 Safety Data Collection, Analysis and Exchange The DGCA shall established channels to receive safety data from third parties as highlighted in this section.

6.2.1 Mandatory Reporting System

Service providers are required to report certain types of events or hazards under the Mandatory Occurrence Scheme. Since mandatory systems deal mainly with event-based issues, they tend to collect more information on technical failures rather than operational activities.

6.2.2 Voluntary Reporting Systems

The reporter, without any legal or administrative requirement to do so, voluntarily submits event or hazard information on-line

6.2.3 Aircraft Accident Reports

The DGCA Air Accident Investigation Sector is responsible for the investigation of civil registered aircraft accidents and incidents within and outside the STATE OF KUWAIT in accordance with Annex 13 to the ICAO Convention. The purpose of the investigation is to determine the findings and significant contributory factors that lead to safety recommendations which are intended to prevent recurrence. It is not the purpose of the investigation to apportion any blame or liability.

6.2.4 State of Kuwait may sign safety data exchange agreements with other authorities or entities.

Any safety data is to be exchanged in accordance with the DGCA policy on protection of safety information.

General statistics of safety data will be made publicly available on the DGCA website.

The **SSO** divisions will be responsible for analyzing data and monitoring global safety data.

Aircraft Accident Investigation Sector will analyze data from Aircraft Accident reports and voluntary occurrence reports.



6.2.5 Performance Based Oversight Activities

Based on the analysis performed by various SSO divisions and SSR Division, the DGCA ASD will be able to target areas of safety concern and conduct oversight activities.

Accordingly, following necessary analysis of safety data, the DGCA ASD will be able to prioritize audits, inspections and surveillance of the service providers.

7. STATE SAFETY PROMOTION

7.1 Internal training, communication and dissemination of safety information

The purpose of having internal safety promotional activities is to enhance the knowledge for performing safety functions. The internal activities will achieve the following:

I. Identify internal training requirements.

II. Develop and provide generic safety training to all staff.

III. Develop a training programme on key components of SSP and SMS for staff that include:

   a. Indoctrination/Initial safety training;

   b. On-the-job safety training;

   c. Recurrent safety training.

IV. Establish means to measure the effectiveness of the training.

V. Develop means to communicate safety-related issues internally, including:

   a. Safety policies and procedures.

   b. Newsletter.

   c. Bulletins.

7.2 External training, communication and dissemination of safety information

The purpose of having external safety promotional activities is to promote and publish safety communication chain between internal and external stakeholders. This will include the following:

I. Establish the means to provide two-way communication for safety-relevant information to support SMS implementation among service providers, including small operators.

II. Develop guidance material on the implementation of SMS for service providers.

III. Establish the means to communicate safety-related issues externally.

APPENDIX 1 CRITICAL ELEMENTS (CEs)

***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 (ICAO - 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 ICAO Annex 6, Part I, and Appendix 1 to ICAO Annex 6, Part III, for provisions specific to the safety oversight of air operators.*

1. Primary aviation legislation (CE-1)

1.1 States of Kuwait will 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 organizations performing an aviation activity.

2. Specific operating regulations (CE-2)

Kuwait DGCA will 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 organizations in specific activities related to the management of safety in the State, and the establishment of the roles, responsibilities and relationships of such organizations.*

3.3 Kuwait DGCA may 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 Kuwait DGCA will 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 Kuwait DGCA may 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 ICAO Annex 6, Part I, and Appendix 1 to ICAO Annex 6, Part III, require the State of the Operator to use such a methodology to determine its inspector staffing requirements. Inspectors are a subset of personnel performing safety oversight functions.*

4. Qualified technical personnel (CE-4)

4.1 Kuwait DGCA will 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 Kuwait DGCA will 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 Kuwait DGCA will 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 Kuwait DGCA will provide technical guidance to the aviation industry on the implementation of relevant regulations.

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

Kuwait DGCA will implement documented processes and procedures to ensure that individuals and organizations performing an aviation activity meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorization or approval to conduct the relevant aviation activity.

7. Surveillance obligations (CE-7)

Kuwait DGCA will implement documented surveillance processes, by defining and planning inspections, audits and monitoring activities on a continuous basis, to proactively assure that aviation licence, certificate, authorization 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 Kuwait DGCA will use a documented process to take appropriate actions, up to and including enforcement measures, to resolve identified safety issues.

8.2 Kuwait DGCA will 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 organizations performing an aviation activity in resolving such issues.

APPENDIX 2 . 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.*

1- Safety data collection and processing systems

Kuwait DGCA will 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;
b) Data and information related to safety investigations by State authorities 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 described in KCASR 6, as well as manual data capture systems.

Note 2*. Guidance related to SDCPS is contained in the Safety Management Manual (SMM) (ICAO - Doc 9859).*

Note 3*. The term "safety database" may refer to a single or multiple database(s).*

Note 4*. SDCPS may include inputs from State, industry and public sources, and may be based on reactive and proactive methods of safety data and safety information collection.*

Note 5*. Sector-specific safety reporting provisions are contained in other Annexes, PANS and SUPPs. There is a recognized benefit to the effective implementation of an SSP in having an integrated approach for the collection and analysis of the safety data and safety information from all sources.*

5.1.1 Kuwait DGCA will establish a mandatory safety reporting system that includes the reporting of incidents.

5.1.2 Kuwait DGCA will establish a voluntary safety reporting system to collect safety data and safety information not captured by mandatory safety reporting systems.

5.1.3 Kuwait DGCA as the authorities responsible for the implementation of the SSP will have access to the SDCPS to support their safety responsibilities, in accordance with the principles.

Note*. The authorities responsible for the implementation of the SSP include accident investigation authorities (Commetty).*

5.1.5 The safety database shall use standardized taxonomy to facilitate safety information sharing and exchange.

***Note**. Its encouraged to use an ADREP-compatible system. More information on ADREP can be found in KCASR 13, Chapter 7.*

2- Safety data and safety information analysis

Kuwait DGCA will 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 Kuwait DGCA 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.*

3- Safety data and safety information protection

Kuwait DGCA will accord protection to safety data captured by, and safety information derived from, voluntary safety reporting systems and related sources

***Note**. Sources include individuals and organizations.*

Kuwait DGCA may extend the protection to safety data captured by, and safety information derived from, mandatory safety reporting system and related sources.

***Note 1**. 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.*

***Note 2.** Guidance related to both mandatory and voluntary safety reporting systems is contained in the Safety Management Manual (SMM) (ICAO - Doc 9859).*

Kuwait DGCA will not make available or use safety data or safety information collected, stored or analysed in accordance for purposes other than maintaining or improving safety, unless the competent authority determines, that a principle of exception applies.

Kuwait DGCA will 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.

Note. *Specific provision aimed at ensuring that there is no overlap with the protection of investigation records in KCASR 13 is contained in Appendix 3, 1.2.*

Kuwait DGCA will take necessary measures, including the promotion of a positive safety culture, to encourage safety reporting through the systems.

Note*. Guidance related to positive safety culture is contained in the Safety Management Manual (SMM) (Doc 9859.)*

Kuwait DGCA may facilitate and promote safety reporting by adjusting their applicable laws, regulations and policies, as necessary.

Kuwait DGCA may institute and make use of appropriate advance arrangements between their authorities and State bodies entrusted with aviation safety and those entrusted with the administration of justice. Such arrangements should take into account the principles

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

4- Safety information sharing and exchange

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

If Kuwait DGCA, in the analysis of the information contained in its SDCPS, identifies safety matters considered to be of interest to other States, Kuwait DGCA will forward such safety information to them as soon as possible. Prior to sharing such information, States shall agree on the level of protection and conditions on which safety information will be shared.

Kuwait DGCA will 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.

Note. *Information on the sharing of safety information can be found in the ICAO Code of Conduct on the Sharing and Use of Safety Information in the Global Aviation Safety Plan (ICAO - Doc 10004).*

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, 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 The State of Kuwait will, 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
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 KCASR 13 (Annex 13) has been instituted, accident and incident investigation records listed in 5.12 of KCASR 13 (Annex 13) shall be subject to the protections accorded therein instead of the protections accorded by this Annex.

2. Principles of protection

2.1 Authorities in State of Kuwait will 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.

2.2 Authorities in the State of Kuwait will 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 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.

4.2 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, summarized or aggregate form.

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

State of Kuwait will 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 organization.*

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

6.1 Kuwait DGCA will, through national laws and regulations, provide specific measures of protection regarding the confidentiality and access by the public to ambient workplace recordings.

6.2 Kuwait DGCA will, 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.

— END —