



ST HELENA

REVISED EDITION OF THE LAWS, 2017

MARITIME & AVIATION LAW

AVIATION ORDINANCE, 2015¹

*Ordinance 4 of 2015
In force 1 June 2015*

Amended by Ordinance 6 of 2016

*Subsidiary legislation:²
AERODROME REGULATIONS, 2015
*Legal Notice 18 of 2015
Amended by L.N.10/2016**

*Included are:
AERODROME CHARGES REGULATIONS, 2015
*(Made by the Governor under Article 158 of the Air Navigation (Overseas Territories) Order 2013)
Legal Notice 16 of 2015
Amended by L.N.17/2017**

CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS) REGULATIONS, 2016
*(Made by the Governor under section 75 of the Civil Aviation Act 1982 as extended to St Helena by Article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order)
Legal Notice 12 of 2016
Amended by L.N. 13/2016*

NOTICE MADE BY THE GOVERNOR PURSUANT TO ARTICLES 4, 5, 7 and 74 OF THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2013
Gazette Notice No. 28 published in Extraordinary Gazette No. 18 of 23 March 2015

AVIATION ORDINANCE, 2015

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

² See also the UK Acts and Orders listed in Part D of the List of UK Laws Applied to St Helena, Ascension and Tristan da Cunha on this website.

ARRANGEMENT OF SECTIONS

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AN ORDINANCE to enact certain provisions relating to civil aviation; and for connected or incidental purposes.

PART 1 PRELIMINARY

Citation and commencement

1. (1) This Ordinance may be cited as the Aviation Ordinance, 2015, and comes into force on a date or dates the Governor appoints by order.³

(2) An order under subsection (1) may appoint different dates for different provisions or for different purposes of the same provision.

Interpretation

2. (1) References to legislation (including Ordinances and Conventions) in this Ordinance are to that legislation as amended or supplemented by regulations or other instruments as amended from time to time.

(2) Terms used in this Ordinance, unless the context otherwise requires, have the meanings ascribed to them in the Air Navigation Order and as set out below:

“**aerodrome**” means the aerodrome at Prosperous Bay Plain;

“**aerodrome operator**” means the person contracted by the Government of St Helena to manage and operate the aerodrome;

“**aerodrome security officer**” means the Designated Accountable Manager appointed by the aerodrome operator and persons appointed by the Designated Accountable Manager from time to time, and every customs officer and police officer;

“**Air Navigation Order**” means The Air Navigation (Overseas Territories) Order 2013 (S.I. 2013 No. 2870)(UK);

“**authority**” means any court, agency, inspectorate, minister, official or public or statutory person with relevant jurisdiction;

“**Chicago Convention**” means the International Convention on Civil Aviation which was

³ 1 June 2015: see L.N. 15/2015

signed on the 7th day of December 1944 on behalf of the United Kingdom at the International Civil Aviation Conference held in Chicago;

“Contracting State” means any State which is party to the Chicago Convention;

“fuel facilities” means the bulk fuel facilities in Rupert’s Valley and the airport fuel facility adjacent to the aerodrome;

“Fuel Management Contractor” means the person appointed by the St Helena Government from time to time to manage the fuel facilities;

“owner” in relation to an aircraft, means the registered owner of the aircraft;

“restricted area” means any area at the aerodrome or the fuel facilities designated as such by the aerodrome operator or the Fuel Management Contractor.

Control of land in the interests of civil aviation

3. (1) The Governor in Council may, if satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes of any land, structures, or works in connection with the aerodrome, direct that any area of land, structure or works be subject to control in accordance with this section.

(2) Pursuant to subsection (1), the Governor in Council may give directions in relation to the area—

- (a)* requiring the total or partial demolition of any building or structure within the area to which the order relates;
- (b)* restricting the height of trees upon any land within the area, or for requiring any tree upon any such land to be cut down or reduced in height;
- (c)* extinguishing any private right of way over land within the area;
- (d)* restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, under or over any land within the area;
- (e)* extinguishing, at the expiration of a period specified in the directions, any subsisting right of installing or maintaining any apparatus as aforesaid upon, across, over or under any land within the area;
- (f)* requiring that, before the expiration of a period specified in the directions, any such apparatus be removed from any land within the area.

(3) Directions under subsection (1) may contain provisions for empowering any person specified in the directions to enforce any of the directions.

(4) A person required to do or refrain from doing anything by a direction under this section may appeal to the Planning and Development Appeals Tribunal established under the Land Planning and Development Control Ordinance, 2013, and that Tribunal may hear and determine any appeal under this section.

Powers of detention

4. (1) If default is made in the payment of any charges incurred in respect of any aircraft at the aerodrome, the aerodrome operator may, subject to this section—

- (a)* detain, pending payment, either the aircraft in respect of which the charges are incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins) or any other aircraft of which the person in default is the operator at the time when the detention begins; and
- (b)* if the charges are not paid within 56 days of the date when the detention begins,

take any steps necessary to sell the aircraft in order to satisfy the charges.

(2) The Governor may authorise the detention of an aircraft at the aerodrome when so requested by an authority with respect to any non-compliance with international safety standards.

(3) Subject to section 5, if an authority of a Contracting State has made a determination as to whether or not any sum is due in respect of air navigation services provided by that Contracting State, that determination is enforceable in St Helena.

Exemption of aircraft and parts of them from seizure on patent claims

5. (1) Any lawful entry into St Helena or any lawful transit across St Helena, with or without landing, of an aircraft to which this section applies does not justify any seizure or detention of the aircraft or any proceedings being brought against the owner or operator of the aircraft, or any other interference with it, by or on behalf of any person in St Helena, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is, or is likely to cause, an infringement of any patent, design or model.

(2) The importation into, and storage in, St Helena of spare parts and spare equipment for an aircraft to which this section applies and the use and installation of them in the repair of such an aircraft does not justify any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings against the owner or operator of the aircraft or the owner of the spare parts or spare equipment, or any other interference with the aircraft, by or on behalf of any person in St Helena, on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

Trespass

6. A person who, without the consent of an aerodrome security officer or other lawful authority, enters a restricted area or remains in the aerodrome or in the fuel facilities when requested to leave by an aerodrome security officer or by the Fuel Management Contractor commits an offence.

Penalty: As provided in section 9(1).

Unauthorised presence on board aircraft

7. It is an offence for a person, not being a person either engaged in Her Majesty's service or having lawful authority to do so, to—

- (a) go on board any aircraft without the consent of the pilot in charge or an aerodrome security officer; or
- (b) remain on board any aircraft after being requested to leave by an aerodrome security officer.

Penalty: As provided in section 9(1).

Power to question and search

8. (1) Every person entering the aerodrome must -

- (a) answer any questions that any aerodrome security officer asks with respect to the purpose of the person's entry, or concerning any baggage or other property

- carried by the person; and
- (b) if so required by the aerodrome security officer, produce that baggage or other property for examination at a place and in a manner the aerodrome security officer directs.

(2) It is an offence for a person to -

- (a) make a false statement to an aerodrome security officer in relation to the purpose of the person's entry, or concerning any baggage or other property carried by the person; or
- (b) refuse to produce any baggage or other property carried by the person when requested to do so in accordance with subsection (1).

Penalty: As provided in section 9(1).

Penalties and power of arrest

9. (1) A person who commits an offence under this Ordinance is liable on conviction to a fine of £20,000 or imprisonment for 5 years, or both.

(2) An aerodrome security officer may arrest, without warrant, any person whom he or she has reasonable grounds to suspect is guilty of committing or attempting to commit an offence under this Ordinance.

Public health and environment

10. (1) An aircraft operator must have regard to guidelines issued by the Governor in Council or the World Health Organization in relation to the disinsection and disinfection of aircraft.

(2) For purposes of subsection (1)—
“disinsection” means the procedure whereby health measures are taken to control or kill insects present in aircraft, baggage, cargo, containers, goods and mail;
“disinfection” means the procedure whereby health measures are taken to control or kill infectious agents on a human or animal body, in or on affected parts of aircraft, baggage, cargo, goods or containers, as required, by direct exposure to chemical or physical agents.

(3) The Governor in Council must make regulations to—

- (a) ensure the safe disposal of waste products on an aircraft landing at the aerodrome;
- (b) prevent the importation of hazardous products by an aircraft;
- (c) control effluent from aviation activities.

(4) A person who contravenes subsection (1) or any regulations issued under subsection (3) commits an offence.

Penalty: A fine of £2,000 or imprisonment for 6 months, or both.

Application of law of wreck and salvage to aircraft

11. (1) Any services rendered in assisting, or in saving life from, or in saving cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the

shores of the sea or any tidal water, are deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel.

(2) If salvage services are rendered by an aircraft to any property or person, the owner of the aircraft is entitled to the same reward for those services as the owner would have been entitled to if the aircraft had been a vessel.

(3) If any aircraft, part of an aircraft or equipment for an aircraft is sunk, stranded or abandoned in the territorial waters of St Helena in such a manner as in the opinion of the Harbour Master appointed under the Ports Ordinance, 2016 is, or is likely to become, an obstruction or a danger to marine navigation in those waters pending the raising, removal or destruction of the aircraft, part or equipment, the Harbour Master may cause the aircraft, part or equipment to be lighted or buoyed in any manner he or she considers appropriate.

Power to make regulations

12. (1) The Governor in Council must make regulations in accordance with this Ordinance.

(2) The Governor in Council may make regulations, or may authorise the aerodrome operator to issue bye-laws, to regulate access to and activities at the aerodrome, and notice of such regulations or byelaws must be displayed at the aerodrome.

(3) Any bye-laws issued by the aerodrome operator under subsection (2) may provide that in respect of any contravention of them the offender is liable on conviction to a maximum fine of £2,000, or to a maximum term of imprisonment of 6 months, or both, as provided in the bye-laws.

AVIATION ORDINANCE, 2015

AERODROME REGULATIONS, 2015

(Section 12(2))

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Citation and commencement

1. These Regulations may be cited as the Aerodrome Regulations, 2015, and come into force on 3 July 2015.

Interpretation

2. (1) References to legislation (including Ordinances and Conventions) in these Regulations are to that legislation as amended or supplemented by way of regulations or other instruments from time to time.

(2) Terms used in these Regulations, unless the context otherwise requires, have the meanings ascribed to them in the Air Navigation Order and the Aviation Security and Piracy (Overseas Territories) Order 2000 (UK)) and as set out below:

“**airside**” includes the movement area of the aerodrome and any other part of the aerodrome to which a person is denied access unless in possession of a valid flight ticket or boarding card or some other identification issued or approved by the aerodrome operator;

“**police officer**” means a person who is a member of, or seconded to, the St Helena Police Service, and includes special constables and constables under probation;

“**parking area**” means a place defined by studs or lines on the ground and provided for the parking of any class of vehicle;

“**passenger**” means a person transported by an aircraft other than a crew member;

“**security restricted area**” means any area at the aerodrome designated as such by the aerodrome operator.

Access to aerodrome and security restricted areas

3. (1) All persons on any part of the aerodrome are subject to these Regulations and by orders and instructions of an aerodrome security officer relating to the use or occupation of any part of the aerodrome, and this regulation is subject to Article 9 of the Air Navigation Order.

(2) No person may enter any security restricted area except with the general or specific written permission of the aerodrome operator and subject to any conditions attached to the permission.

(3) No person may enter or be upon the runway, control tower or the customs area of the aerodrome, except—

- (a) persons assigned to duty at that place by the aerodrome operator;
- (b) authorised representatives of the St Helena Government; and
- (c) persons authorised by the aerodrome operator.

(4) All required permits, passes and other required forms of identification must be prominently displayed and available for inspection.

(5) A person must state his or her correct name and address and the purpose of his or her being on the aerodrome, if so requested by an aerodrome security officer.

(6) These Regulations do not apply to any person who is a member of a fire, police or ambulance service when attending a notified emergency or incident, nor to any emergency vehicle being used by any such person during any such emergency or incident.

(7) Authorised airport identification must be used only by the person to whom it was issued and only for purposes of conducting official airport related business.

Animals

4. (1) No person may bring into the aerodrome or tether, or cause to be tethered, or permit to stray on the aerodrome any animal, except an animal which has arrived by air or is intended for despatch by air and which is restrained by leash or confined in such other manner as to be under control.

(2) An aerodrome security officer may seize and impound any animal found straying or tethered on the aerodrome, or ~~to~~ shoot any animal found straying on the aerodrome.

(3) Sub-regulations (1) and (2) do not apply to any dog required to be on the aerodrome for security or guard duties, provided that the animal is restrained by leash or under the control of an aerodrome security officer.

Prohibited acts

5. The following acts are prohibited within the aerodrome in the absence of lawful authority or reasonable excuse:

- (a) intentionally obstructing or interfering with the proper use of the aerodrome;
- (b) intentionally obstructing any person acting in the execution of his or her duty in relation to the aerodrome;
- (c) failing to comply with any notice prohibiting or restricting access to any building, road or any part of the aerodrome;
- (d) allowing any vehicle, animal or thing to be on the aerodrome after having been required to remove it, or after its presence on the aerodrome has been forbidden, by an aerodrome security officer;
- (e) boarding or climbing upon, or attempting to board or climb upon, any aircraft without the authority of the person in charge of it;
- (f) failing to chock properly or otherwise secure a stationary aircraft other than in a hangar;
- (g) intentionally operating, otherwise than in an emergency, any switch or lever of any escalator, lift or door upon or near which is displayed a notice that it is intended only to be operated in an emergency;
- (h) obstructing an emergency exit at the aerodrome;
- (i) tampering with, interfering with or misusing any lift, escalator, conveyor belt, power operated gangway or any mechanical or electronic equipment, including fire hydrants, fire extinguishers, defibrillators or other lifesaving equipment;
- (j) tampering with, interfering with or misusing any apparatus provided for transmitting and receiving messages;
- (k) smoking in, or otherwise bringing or lighting any naked light into or in, any place on the aerodrome except in a designated smoking area;
- (l) climbing any wall, fence, barrier, railing or post;
- (m) taking photographs or participating in filming or sound recording in a security restricted area of the aerodrome without permission;
- (n) throwing, leaving or dropping on the apron anything capable of causing injury to

- any person or property;
- (o) littering on the aerodrome or discarding foodstuff or other items in a manner that might attract birds or other animals;
- (p) intentionally giving a false fire or ambulance alarm, bomb warning or any other emergency alarm by any means;
- (q) failing to place an aircraft or any device, appliance or other thing incidental or ancillary to an aircraft in the place and position appointed for that purpose by the aerodrome operator or a person authorised by him or her for the purpose;
- (r) on parts of the aerodrome to which the Road Traffic Ordinance, 1985 does not apply—
 - (i) driving or placing a vehicle carelessly or recklessly or without due consideration for persons using the aerodrome;
 - (ii) failure by the driver of a vehicle to stop when required to do so by an aerodrome security officer;
 - (iii) failure by the driver of a vehicle which is involved in an accident to give his or her name and address and the name and address of the owner of the vehicle to any person having reasonable grounds for requiring them;
 - (iv) failure by the driver of a vehicle forthwith to stop after any accident occurs and report the accident to an aerodrome security officer as soon as reasonably practicable and in any event before leaving the aerodrome;
 - (v) failure by the driver of a vehicle to comply with any direction for the regulation of traffic given by an aerodrome security officer or a traffic sign;
 - (vi) parking a vehicle elsewhere than in a place provided for that purpose;
 - (vii) failure by the person in charge of a vehicle to remove it from any parking area when required to do so;
 - (viii) leaving or parking a vehicle in excess of the permitted time in an area where the period of waiting is restricted by notice;
- (s) soliciting funds or contributions of any kind or causing any annoyance to any person at the aerodrome;
- (t) leaving any baggage or other item unattended in a public place or security restricted area within the aerodrome;
- (u) being drunk or under the influence of drugs or other intoxicating substances in any part of the aerodrome;
- (v) organising or taking part in any demonstration, procession or public assembly likely to obstruct or interfere with the proper use of the aerodrome or obstruct or interfere with the comfort and convenience or safety of passengers or persons using the aerodrome;
- (w) removing from the aerodrome any baggage trolleys, wheelchairs and other disabled assistance devices provided for passenger use at the aerodrome;
- (x) misusing any baggage trolley, wheelchairs and other disabled assistance devices provided for passenger use at the aerodrome;
- (y) skateboarding or playing any ball game or other similar game which may cause a nuisance or annoyance;
- (z) a person failing to comply with any request by an aerodrome security officer to leave the aerodrome or any particular part of it or to state the person's name and address and the purpose of the person being on the aerodrome, provided that such aerodrome security officer must provide written evidence of his or her authority if required to do so.

Acts for which permission is required

6. The following acts are prohibited within the aerodrome without the prior permission of the aerodrome operator:

- (a) knowingly entering or leaving the aerodrome otherwise than through a gate or entrance for the time being provided for that purpose;
- (b) knowingly entering any part of the aerodrome to which members of the public are not for the time being admitted;
- (c) driving on the airside without first obtaining a valid airside driving permit from the aerodrome security officer, unless that person is escorted at all times by the holder of such a permit;
- (d) selling or distributing anything, offering anything for sale or hire, or making any offer of services for reward;
- (e) affixing any sign or advertisement in the aerodrome or on any fence on the boundary of the aerodrome;
- (f) on parts of the aerodrome to which the road traffic enactments do not apply—
 - (i) leaving a vehicle on the aerodrome longer than is reasonably necessary for the transaction of the business for the purposes of which it was brought there;
 - (ii) driving a vehicle elsewhere than in a place provided for the passage or accommodation of such a vehicle; or
 - (iii) leaving a vehicle unattended while the engine is running;
- (g) filling or discharging from any container (including any part of a vehicle) liquid fuel elsewhere than in a place approved for that purpose by the aerodrome operator;
- (h) by any act or omission causing a fire to occur elsewhere than in a place provided for that purpose;
- (i) cleaning, servicing or maintaining aircraft, vehicles or equipment or running aircraft engines in areas other than those designated for the purpose;
- (j) playing a musical instrument;
- (k) erecting or using any apparatus for transmission, receipt, recording, reproduction or amplification of sound, speech or images in a manner which is likely to cause a nuisance or annoyance;
- (l) intentionally operating or using in such a way as to prejudice the operation of any communications, navigation or other systems at the aerodrome, any radio transmitter or other thing capable of radiating or generating electrical interference; or
- (m) intentionally operating a laser device in such a way as to prejudice the operation of any aircraft or vehicle at the aerodrome.

Motor vehicles

7. (1) No person may operate any motor vehicle at the aerodrome except in accordance with the Road Traffic Ordinance, 1985 unless otherwise permitted by an aerodrome security officer, except in cases of emergency involving danger to life or property.

(2) No person may park a motor vehicle on the aerodrome except in a parking area designated for that purpose.

(3) If it appears to an aerodrome security officer that a vehicle has been parked or left by any persons in contravention of these Regulations on any part of the aerodrome, the

officer may cause that vehicle to be removed in a manner and to a place on the aerodrome as the officer thinks fit.

Taxis, buses and rental cars

8. (1) No person may, without reasonable excuse, stand or park a taxi, bus or rental car on the aerodrome for the purpose of plying for hire or rent unless the person has been authorised so to do by the aerodrome operator.

(2) No person may ply for hire with a taxi or bus except in an area designated and marked for that purpose.

(3) No person may leave a taxi or bus in an area designated in the manner referred to in sub-regulation (2) unless willing to be hired immediately.

(4) Taxi or bus drivers or owners of rental cars must not without reasonable excuse obstruct any carriageway, footway or building or give reasonable cause for annoyance or disturbance to persons in the aerodrome.

(5) No person may wash down or clean out a taxi, bus or rental car whilst it is on a standing.

(6) No person may carry out any major maintenance or repairs on a taxi, bus or rental car whilst it is on a standing.

Driving at the aerodrome

9. (1) No person may drive a motor vehicle at a speed in excess of—
(a) 15 miles per hour on the aerodrome apron, service road or taxiway;
(b) 50 miles per hour on the runway;
(c) 20 miles per hour on any other part of the airside area;
(d) any other speed limit designated by notice from time to time by the Aerodrome Manager,
 unless the vehicle is being driven in response to or in preparation for any emergency situation.

(2) A person who is under the influence of alcohol, drugs or other intoxicating substance must not drive or attempt to drive a vehicle at the aerodrome.

Lost property

10. (1) These Regulations apply in relation to the safe custody, redelivery and disposal of any property or thing which, while not in proper custody, is found on any part of the aerodrome to which the public or passengers have access, or in any vehicle owned or operated by or on behalf of the aerodrome operator, excluding any property or thing found on board an aircraft, in a taxi or on premises licensed by the aerodrome operator.

(2) Subject to the Customs and Excise Ordinance, 1999, any person (other than a member of the aerodrome operator's staff or an aerodrome security officer) who finds property to which these Regulations apply must hand it as soon as reasonably practicable in

the state in which the person finds it to a member of the aerodrome operator's staff or an aerodrome security officer and inform that person of the place and circumstances in which it was found.

(3) Subject to the Customs and Excise Ordinance, 1999 and sub-regulation (4) below, any member of the aerodrome operator's staff or an aerodrome security officer to whom property is handed pursuant to these Regulations, or who himself or herself finds any property to which these Regulations apply, must as soon as reasonably practicable, and in any case before leaving the aerodrome, deliver the property for safe custody in the state in which it comes into the person's possession to the Lost Property Office at the aerodrome and inform a member of the aerodrome operator's staff or an aerodrome security officer at the Lost Property Office of the circumstances in which it was found.

(4) If, before any lost property has been delivered for safe custody to the Lost Property Office under these Regulations it is claimed by a person who satisfies the member of the aerodrome operator's staff or an aerodrome security officer, as the case may be, that he or she is, or represents, the true owner, the property must be returned to that person, forthwith, without charge, on that person giving his or her name and address to the member of staff or security officer, as the case may be.

(4A) A member of the aerodrome operator's staff or aerodrome security officer returning property to a person under sub-regulation (4) must as soon as possible report the facts and give the claimant's name and address and a description of the lost property to the Lost Property Office.

(5) Any lost property delivered to the Lost Property Office must, subject to sub-regulation (5A), be retained in safe custody by the aerodrome operator until claimed by the true owner of it or disposed of in accordance with sub-regulation (7) and the aerodrome operator must keep for a period of not less than 12 months a record showing particulars of the lost property (whether delivered to the Lost Property Office or disposed of pursuant to sub-regulation (7)), the circumstances in which it was found and the ultimate disposal of the lost property.

(5A) Sub-regulation (5) is subject to the exceptions that—

- (a)** official documents, including licences, passports and alien identity books must, wherever practicable, be returned forthwith to the appropriate government department, local authority or other body or person responsible for issuing them or for controlling or dealing with them;
- (b)** if the name and address of the true owner of any lost property, other than the documents referred to in the preceding proviso, are readily ascertainable, the aerodrome operator or an aerodrome security officer must forthwith notify the true owner that the lost property is in the possession of the aerodrome operator or airport security officer, as the case may be, and can be claimed in accordance with these Regulations.

(6) If any lost property is claimed while it is retained by the aerodrome operator and the claimant

- (a)** proves to the satisfaction of the aerodrome operator or an aerodrome security officer that he or she is, or represents, the true owner and that any requirements of the Customs and Excise Ordinance, 1999 have been complied with in relation to

the property; and
 (b) gives his or her name and address to a member of staff of the Lost Property Office or an aerodrome security officer,
 the property must be delivered to the claimant at the Lost Property Office, ~~and~~ upon payment of any charge the aerodrome operator from time to time fixes for the return of any lost property delivered to the Lost Property Office.

(7) The aerodrome operator may dispose of any lost property, subject to the following conditions:

- (a) If any lost property retained by the aerodrome operator for safe custody in accordance with these Regulations is not, within 6 months of the date when it was delivered to the Lost Property Office, re-delivered to a person pursuant to sub-regulations (5) and (6), the aerodrome operator may sell it for the best price that can reasonably be obtained or, in the case of items of negligible value, dispose of it as the operator thinks fit.
- (b) Notwithstanding the foregoing provisions of this regulation, if any lost property retained by the aerodrome operator pursuant to this regulation is of a perishable nature and if, within 48 hours from the time when it was found, it has not been re-delivered to a person pursuant to paragraph (5), the aerodrome operator may sell it at the best price that can reasonably be obtained or otherwise dispose of it.
- (c) Notwithstanding the foregoing provisions of this Regulation, any lost property which is or which becomes objectionable may forthwith be destroyed or otherwise disposed of in a reasonable manner.

(8) If any lost property is contained in a package, bag or other receptacle, an aerodrome security officer may cause the receptacle to be opened and the contents examined, or require the claimant to open it and submit it and its contents for examination, for the purpose of—

- (a) identifying and tracing the owner of the lost property;
- (b) ascertaining the nature of the contents; or
- (c) satisfying the aerodrome security officer or aerodrome operator that the contents do not include any item or items which may put at risk the safety or security of the aerodrome, any aircraft or any navigation installation,

and if any item or items referred to in paragraph (c) are found, they must be handed to an aerodrome security officer immediately.

Penalties and power of arrest

11. (1) A person who contravenes any of these Regulations commits an offence.

Penalty: A fine of £2,000 or imprisonment for 6 months, or both.

(2) A police officer may arrest, without warrant, any person whom the officer has reasonable grounds to suspect is guilty of committing or attempting to commit an offence under these Regulations

AERODROME CHARGES REGULATIONS, 2015

Made by the Governor under Article 158 of the Air Navigation (Overseas Territories) Order

2013 (S.I. 2013/2870) made under the Civil Aviation Act 1982⁴

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Citation and commencement

1. These Regulations may be cited as the Aerodrome Charges Regulations, 2015, and come into force on 26th February 2016.

Interpretation

2. (1) References to legislation (including Ordinances and Conventions) in these Regulations are to that legislation as supplemented by regulations or other instruments as amended from time to time.

(2) Terms used in these Regulations, unless the context otherwise requires, have the meanings ascribed to them in the Air Navigation Order, and as set out below:
“aerodrome” means the aerodrome at Prosperous Bay Plain;

⁴ [Charges at aerodromes certificated or licensed for public use

158. (1) The Governor may, in relation to any aerodrome for which a certificate in accordance with article 155 has been granted, or to such aerodromes generally or to any class thereof, prescribe the charges, or the maximum charges, which may be made for the use of the aerodrome and for any services performed at the aerodrome to or for aircraft, and may further prescribe the conditions to be observed in relation to those charges and the performance of those services.

(2) The operator of an aerodrome in relation to which the Governor has prescribed charges under paragraph (1) must not cause or permit any charges to be made except as may be prescribed, and must cause particulars of the prescribed charges to be kept exhibited at the aerodrome in such a place and manner as to be readily available for the information of any person affected by them.

(3) The operator of any aerodrome for which an aerodrome certificate or licence for public use has been granted must, when required by the Governor, provide to the Governor such particulars as may be required of the charges established by the operator for the use of the aerodrome or of any facilities provided at the aerodrome for the safety, efficiency or regularity of air navigation.]

“carrier” means an airline operating for the purposes of commercial air transport to and from St Helena;

“maximum certified take-off mass” means the maximum permissible take-off weight of the aircraft and its contents as specified by the Aircraft Certificate of Airworthiness;

“owner” in relation to an aircraft, means the registered owner of the aircraft;

“passenger” means any person transported by an aircraft other than a crew member;

“Schedule” means the Schedule to these Regulations;

“transit passengers” means passengers whose flight does not involve a change of flight number during its ground stop.

Charges

3. Subject to these Regulations, charges are payable as set out in these Regulations.

Exemptions

4. The following aircraft and persons are exempt from payment of charges—

- (a) diplomatic, government and military aircraft and their personnel on official duty;
- (b) aircraft that are involved in search and rescue or volcano monitoring;
- (c) aircraft requiring an emergency landing, including bomb threats;
- (d) aircraft returning within one hour after take-off;
- (e) members of the aircraft crew, when performing their duties;
- (f) officials of airline companies travelling on the business of the airline company;
- (g) transit passengers.

Landing charge

5. (1) A landing charge is payable by the operator of an aircraft for—

- (a) the use of the landing facilities and installations (including lighting facilities and installations);
- (b) the use of aircraft parking positions even during any free parking time;
- (c) the marshalling in and out of aircraft; and
- (d) the cargo facilities generally available.

(2) The basis of the landing charge is the maximum certified take-off mass of the aircraft rounded up to the next full 1,000 kilograms.

(3) Irrespective of the maximum certified take-off mass of an aircraft, a minimum landing charge per aircraft will be charged per landing.

(4) The landing charge is to be assessed at the rate set out in the Schedule, subject to any exemption conferred by regulation 4.

Navigation charges

6. Charges for the use of terminal navigation facilities serving the aerodrome are included in the landing charge.

Parking charge

7. (1) A parking charge is payable by an operator of an aircraft for the use by such aircraft of any parking areas available at the aerodrome.

(2) The basis of the parking charge is to be the maximum certified take-off mass rounded up to the next full 1,000 kilograms.

(3) The parking charge is to be assessed at the rate set out in the Schedule, subject to any exemption conferred by regulation 4.

Extended hours of operation charge

8. (1) An additional extended hours of operation charge is payable by an operator for the use of the aerodrome and its landing facilities and installations when landing at the airport at times when the aerodrome would not ordinarily be open.

(2) The extended hours of operation charge is to be assessed at the rate set out in the Schedule, subject to any exemption conferred by regulation 4.

(3) The extended hours of operation charge will be identified to the operator of an aircraft as part of the Prior Permission Required application for services referred to in the St Helena Aeronautical Information Publication.

Passenger service charges

9. (1) A passenger service charge is payable in respect of each passenger on each occasion a passenger leaves the aerodrome for a place outside St Helena at the rate set out in the Schedule.

- (2) The passenger service charge is payable for—
- (a) the use of the passenger terminal buildings including all their facilities and installations by departing passengers; and
 - (b) the implementation of required security measures.

(3) The basis of the passenger service charge is each departing passenger at the rate set out in the Schedule, subject to any exemption conferred by regulation 4.

Fuel facilities charge

9A. (1) There shall be levied a fuel facilities charge in respect of each passenger on each occasion such passenger—

- (a) arrives at the aerodrome from a place outside St Helena; or
- (b) leaves the aerodrome for a place outside St Helena.

(2) The fuel facilities charge is payable as a contribution to the cost of the provision and utilisation of the fuelling facilities for aircraft.

(3) The basis of the fuel facilities charge is each arriving and departing passenger at the rate set out in the Schedule, subject to any exemption conferred by regulation 4.

Payments

10. (1) Landing charges and parking charges are payable by the operator of an aircraft, or the operator's nominated representative, before departure of the aircraft from St Helena, unless prior arrangements have been agreed in writing by the Financial Secretary of the St Helena Government.

(2) The passenger service charge must be collected by the carrier or operator of an aircraft before departure of the aircraft from St Helena, unless prior arrangements have been made with the Financial Secretary.

(3) All passenger service charges collected must be remitted to the Financial Secretary on a monthly basis.

(4) Notwithstanding the foregoing provisions of this regulation, the Financial Secretary may allow the charges payable by or on behalf of the operator of a civil aircraft regularly arriving at the aerodrome to be calculated monthly with reference to the total number of aircraft of that operator which actually arrive at the aerodrome during the month in respect of which the calculation is to be made.

SCHEDULE

(Regulations 5, 7, 8 & 9)

CHARGES

AERODROME:

St Helena

LANDING CHARGE: (Regulation 5)

Rate of landing charge:	£4 per metric tonne, subject to a minimum charge of £200
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PARKING CHARGE: (Regulation 7)

Rate of parking charge:	0 – 4 hours free, thereafter 20% of applicable landing charge per 24 hours or part thereof
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EXTENDED HOURS OF OPERATION CHARGE: (Regulation 8)

A surcharge of 100% of the applicable landing charge for flights landing on a day other than a Contracted Flying Day as defined in the St Helena Aeronautical Information Publication.

PASSENGER SERVICE CHARGE: (Regulation 9)

Rate of passenger service charge: International flights:

Passengers over 12 years:	£17.00
Passengers between 2 and 12 years:	£8.50
Passengers under 2 years:	£0

Rate of passenger service charge – Domestic flights:

Passengers over 12 years:	£17.00
Passengers between 2 and 12 years:	£8.50

Passengers under 2 years:

£0

FUEL FACILITIES CHARGE (*Regulation 9A*)

Rate of fuel facilities charge:

£50.00 per passenger.

**CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS)
REGULATIONS, 2016**

Made by the Governor under section 75 of the Civil Aviation Act 1982 as extended to St Helena by Article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order 2001 (S.I.2001/1452) and in accordance with Schedule 1 to that Order⁵

⁵ [Section 75. (1) The Governor may by regulations under this section make such provision as appears to him to be requisite or expedient—

(a) for the investigation of any accident arising out of or in the course of air navigation and either occurring in or over the Territory or occurring elsewhere to aircraft registered in the Territory; and

(b) for carrying out any Annex to the Chicago Convention (being an Annex adopted in accordance with the Convention and relating to the investigation of accidents involving aircraft) as it has effect from time to time with any amendment made in accordance with the Convention (hereafter in this section referred to as “the Annex”).

(2) Without prejudice to the generality of subsection (1)(b) above, the provision there authorised includes provision with respect to any of the following matters, that is to say—

(a) the definition of “accident” for the purposes of this section so as to correspond to the meaning adopted for the time being in the Annex;

(b) the participation of any persons authorised for the purpose in accordance with the regulations in any investigation held in accordance with the requirements of the Annex by the competent authorities of any other state; and

(c) the investigation of any accident other than one to which subsection (1)(a) above applies for the purpose of securing any information, articles or other material which it is the duty of the Territory in accordance with any requirements of the Annex to furnish to any other state.

(3) Without prejudice to the generality of subsection (1) above, regulations under this section may contain provisions—

(a) requiring notice to be given of any such accident as is mentioned in subsection (1)(a) above in such manner and by such persons as may be specified in the regulations;

(b) applying, with or without modification, for the purpose of investigations held with respect to any such accident any of the provisions of any law in force in the Territory relating to the investigation of deaths or accidents;

(c) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person so far as may be necessary for the purposes of an investigation, or for the purpose of determining whether an investigation should be held, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such aircraft and any other aircraft;

(d) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted in the Territory under Part II of the Civil Aviation Act 1949, as extended to the Territory by the Civil Aviation Act 1949 (Overseas Territories) Order 1969, or any Order in Council or order made under the said Part II

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Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2016, and come into force upon publication in the *Gazette*.

Interpretation

as so extended, or the withdrawal or suspension of any validation conferred in the Territory of a licence granted by a duly competent authority elsewhere, where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered or the validation withdrawn or suspended, as the case may be, and requiring the production of any such licence or certificate for the purpose of being so dealt with.

(4) Without prejudice to subsection (2)(a) above, in this section “accident” shall be construed as including any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened.

(5) If any person contravenes or fails to comply with any regulations under this section he shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding three months.

(6) Nothing in this section shall limit the powers of any authority under sections 245 to 247 or 252 to 254 of the Merchant Shipping Act 1995(1) or any enactment amending those sections.

(7) Part VI of the Civil Aviation Act 1949, as extended to the Territory by the Civil Aviation Act 1949 (Overseas Territories) Order 1969 applies to this section.]

2. (1) In these Regulations, unless the context otherwise requires—
- “accident”** means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft takes place between the time a 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) a person is fatally or seriously injured as a result of being in the aircraft, or in 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 were inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
 - (b) the aircraft sustains damage or structural failure which—
 - (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
 - (ii) would normally require major repair or replacement of the affected component, except for engine failure or damage when damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, tyres, brakes, wheels, fairings, panels, landing gear doors, windcreens, 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
 - (c) the aircraft is missing or is completely inaccessible;
- “accredited representative”** means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State;
- “adviser”** means a person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation;
- “aerodrome authority”** means, in relation to an aerodrome, the person by whom the aerodrome is managed;
- “aircraft”** means 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;
- “cause”** means an act, omission, condition or circumstance which if eliminated or avoided would have prevented the occurrence or would have mitigated the resulting injuries or damage;
- “Chief Investigator”** means the Chief Air Accident Investigator appointed under regulation 8;
- “civil aircraft”** means an aircraft involved in civil aviation;;
- “contributing factors”** means actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident;
- “crew”** includes every person employed or engaged by the operator in an aircraft in flight in relation to the operation of the aircraft including, where the operator and the pilot in command are the same person, the pilot in command;
- “expert”** means a person appointed by a State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens;
- “fatal injury”** means an injury which is sustained by a person in an accident and which

- results in his or her death within 30 days of the date of the accident;
- “flight recorder”** means any type of recorder installed in an aircraft for the purpose of complementing accident or incident investigation including a flight data recorder, cockpit voice recorder and image recorder;
- “ICAO”** means the International Civil Aviation Organisation;
- “incident”** means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;
- “investigation”** means a process conducted by a Safety Investigation Authority for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/or contributing factors and, when appropriate, the making of safety recommendations;
- “Investigator”** means a person appointed as an Air Accident Investigator under regulation 8;
- “Investigator-in-Charge”** means a person charged, on the basis of his or her qualifications, with responsibility for the organisation, conduct and control of an investigation conducted pursuant to these Regulations;
- “maximum mass”** means certificated maximum take-off mass of an aircraft;
- “operator”** means a person, organisation or enterprise engaged in, or offering to engage in the operation of an aircraft, whether for valuable consideration or otherwise;
- “owner”** means, where an aircraft is registered, the registered owner;
- “pilot in command”** means the pilot designated by the operator as being in command of an aircraft and charged with the safe conduct of its flight or, if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;
- “preliminary report”** means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;
- “safety recommendation”** means a proposal of an accident investigation authority, based on information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident;
- “serious incident”** means an incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of an aircraft;
- “serious injury”** means an injury sustained by a person in an accident which—
- (a) requires hospitalisation for more than 48 hours, commencing within 7 days from the date the injury was received;
 - (b) results in a fracture of a bone, excluding simple fractures of fingers, toes, or nose;
 - (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
 - (d) involves injury to an internal organ;
 - (e) involves second or third degree burns, or any burns affecting more than 5% of the body surface; or
 - (f) involves verified exposure to infectious substances or harmful radiation;
- and references to “seriously injured” in these Regulations are to be construed accordingly;
- “State of Design”** means the State having jurisdiction over the organisation responsible for the type design of an aircraft or aircraft engine;
- “State of Manufacture”** means the State having jurisdiction over the organisation responsible for the final assembly of an aircraft, aircraft engine, or major components of the aircraft;

“State of Occurrence” means the State in the territory of which an accident or serious incident occurs;

“State of the Operator” means 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 of Registry” means the State on whose register an aircraft is entered.

(2) A notice or other document required or authorised by a provision of these Regulations to be served on or given to a person may be served or given by—

- (a) delivery to the person;
- (b) leaving it at the person’s usual or last-known residence or place of business, whether in St Helena or elsewhere;
- (c) sending it to the person at the address referred to in paragraph (b) by post, telex, facsimile transmission or other similar means which produce a document containing a text of the communication, whereupon the document is to be treated as served when it is received.

Application

3. These Regulations apply only to accidents and incidents involving aircraft engaged in civil aviation.

Purpose of the investigation of accidents and incidents

4. The sole objective of the investigation of an accident or incident under these Regulations is the prevention of accidents and incidents and it is not the purpose of this activity to apportion blame or liability.

Duty to furnish information relating to accidents and serious incidents

5. (1) If an accident or a serious incident occurs the relevant person and, in case of an accident or a serious incident occurring on or adjacent to an aerodrome, the aerodrome authority must—

- (a) give notice of the accident or incident to the Governor, to the Chief Investigator and to the designated authority for civil aviation regulation in St Helena by the quickest means of communication available; and
- (b) if an accident occurs in or over St Helena, notify forthwith the local police authorities of the accident and of the place where it occurred.

(2) In this regulation the expression **“relevant person”** means—

- (a) in the case of an accident or serious incident occurring in or over St Helena, or occurring elsewhere to an aircraft registered in St Helena - the pilot in command of the aircraft involved at the time of the accident or serious incident or, if the pilot in command is killed or incapacitated, the operator of the aircraft; and
- (b) in the case of a serious incident occurring in or over a country or territory other than a Contracting State to an aircraft registered elsewhere than in St Helena but operated by an undertaking established in St Helena - the undertaking.

(3) The notice to the Chief Investigator referred to in sub-regulation (1) must contain, to the extent it is available—

- (a) in the case of an accident - the identifying abbreviation ‘ACCID’ or, in the case

- of a serious incident ‘INCID’;
- (b) the manufacturer, model, nationality and registration marks, and serial number of the aircraft;
- (c) the name of the owner, operator and hirer or lessee, if any, of the aircraft;
- (d) the qualifications of the pilot in command, and the nationality of the crew and passengers;
- (e) the date and time (local time or UTC) of the accident or serious incident;
- (f) the last point of departure and the point of intended landing of the aircraft;
- (g) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude;
- (h) the number of—
 - (i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of crew killed or seriously injured as a result of the accident;
 - (ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of passengers killed or seriously injured as a result of the accident; and
 - (iii) in the case of an accident - other persons killed or seriously injured as a result of the accident;
- (i) a description of the accident or serious incident and the extent of the damage to the aircraft as far as is known as well as an indication of access difficulties or special requirements to reach the site; and
- (j) the presence and description of any dangerous goods on board the aircraft.

(4) The Chief Investigator must forward a notification of an accident or serious incident in the ICAO ADREP format with the minimum of delay and by the most suitable and quickest means available, to—

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture; and
- (e) the ICAO, when the aircraft involved is of a maximum mass of over 2,250kg or is a turbo-jet powered aircraft.

(5) The person who is the owner, operator, pilot in command or hirer of the aircraft must, if so required by notice in writing given to the person by the Chief Investigator, send to the Chief Investigator all information in the person’s possession or control, in a form and at times specified in the notice.

(6) Upon receipt of notification of an accident or a serious incident occurring outside St Helena involving an aircraft registered in St Helena or of which St Helena is the State of the operator, the operator of the aircraft must, as soon as possible, provide the authorities of the State conducting the investigation with any relevant information available regarding the aircraft and flight crew involved in the accident or serious incident, and a copy of the passenger manifest and any dangerous cargo.

(7) Notwithstanding sub-regulation (6), the Chief Investigator must inform the authorities of the State conducting the investigation whether St Helena intends to appoint an accredited representative.

Preliminary report on accident or incident to be published

6. Subject to regulations 11(2) and 18, the Chief Investigator may at any time publish, or cause to be published, a preliminary report or information relating to an accident or serious incident.

Protection and removal of damaged aircraft

7. (1) Subject to sub-regulations (2) and (3) below and to regulation 9, if an accident or serious incident occurs in or over St Helena—

- (a) no person other than an authorised person may have access to the aircraft involved in the accident or serious incident;
- (b) neither the aircraft nor its contents may, except under the authority of the Chief Investigator or the Investigator-in-Charge, be removed or otherwise interfered with;
- (c) the Chief Investigator, the Investigator-in-Charge, or persons authorised by one of them, must take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for any period necessary for the purposes of an investigation;
- (d) the Chief Investigator, the Investigator-in-Charge or persons authorised by one of them, must take all necessary steps to ensure that the aircraft, its contents, and any other evidence remain undisturbed pending inspection by an accredited representative, pursuant to a request from the State of Registry, State of Design, State of Manufacture or State of the Operator, so far as this is reasonably practicable and compatible with the proper conduct of the investigation and provided that it does not result in undue delay in returning the aircraft to service where this is practicable.

(2) Notwithstanding sub-regulation (1)—

- (a) the aircraft may be accessed, moved or interfered with to the extent necessary to—
 - (i) extricate persons, animals, mail and valuables;
 - (ii) prevent destruction by fire or other causes;
 - (iii) eliminate any danger or obstruction to air navigation, to other transport or to the public; and
 - (iv) remove other property from the aircraft under the supervision of an Investigator or with the agreement of an Investigator or a police officer; and
- (b) if an aircraft is in water, the aircraft or any of its contents may be removed to the extent necessary for bringing the aircraft or the contents to a place of safety.

(3) The Chief Investigator or the Investigator-in-Charge must release custody of the aircraft, its contents or any parts of the aircraft or contents as soon as they are no longer required in the investigation, to any person or persons duly designated by the State of Registry or the State of the Operator, as applicable.

(4) In this regulation the expression “authorised person” means—

- (a) a person authorised by the Governor either generally or specially to have access to an aircraft involved in an accident or serious incident;
- (b) the Chief Investigator, the Investigator-in-Charge or a person authorised by him or her;

- (c) a police officer; or
- (d) an officer of the Customs and Excise Department.

Air Accident Investigators

8. (1) For the purpose of carrying out investigations into accidents and incidents to which these Regulations apply, the Governor must appoint a Chief Investigator who will appoint persons as Air Accident Investigators, one of whom the Chief Investigator must, subject to sub-regulation (8), appoint as the Investigator-in-Charge,

(2) Subject to sub-regulations (4) and (5), the Chief Investigator must carry out, or cause an Investigator to carry out, an investigation into—

- (a) accidents and serious incidents which occur in or over St Helena;
- (b) accidents and serious incidents which occur to aircraft registered in St Helena in or over a country or territory which is not a Contracting State or where the location of the accident or serious incident cannot definitely be established as being in the territory of any State;
- (c) accidents and serious incidents which occur in or over a country or territory which is not a Contracting State to aircraft which are registered elsewhere than in St Helena but which are operated by an undertaking established in St Helena when such an investigation is not carried out by another State; and

(3) Subject to sub-regulations (4) and (5), the Chief Investigator may, where he or she expects to draw air safety lessons from it, carry out, or cause an Investigator to carry out, an investigation into an incident, other than a serious incident, which occurs—

- (a) in or over St Helena; or
- (b) otherwise than in or over St Helena to an aircraft registered in St Helena.

(4) The Chief Investigator may delegate the whole or any part of an investigation into an accident or incident to another State or a regional accident investigation organisation by mutual arrangement and consent.

(5) If the Chief Investigator delegates the task of carrying out an investigation pursuant to sub-regulation (4), the Chief Investigator must to the extent possible facilitate inquiries by the Investigator-in-Charge appointed by the relevant State.

(6) Without affecting the power of an Investigator to seek any advice or assistance the Investigator considers necessary in making an investigation, the Chief Investigator may appoint suitably qualified persons to assist an Investigator in a particular investigation.

(7) The Chief Investigator may invite the aviation authorities and suitably qualified persons or organisations from St Helena and other Contracting States to assist in the conduct of the investigation, so far as this is compatible with the proper conduct of the investigation.

(8) The Chief Investigator must designate a person as the Investigator-in-Charge of an investigation except where the investigation has been delegated under paragraph (4).

(9) If, in the course of an investigation, it becomes known, or it is suspected, that

an act of unlawful interference to the aircraft was involved in the cause of the accident or serious incident, the Investigator-in-Charge must immediately initiate action to ensure that the aviation security authorities of St Helena are informed.

Powers and duties of Investigators

9. (1) An Investigator is authorised, for the purpose of enabling him or her to carry out an investigation into an accident or incident in the most efficient way and within the shortest time, in co-operation with the authorities responsible for any judicial inquiry where appropriate, to—

- (a) have unrestricted and unhampered access to and control over the site of the accident or incident, the aircraft, its contents or its wreckage, and all relevant material or evidence including the protection of the aircraft, debris or components for examination or analysis purposes;
- (b) ensure an immediate listing of evidence and controlled removal of debris, or components, for examination or analysis purposes;
- (c) have immediate access to and use of the contents of the flight recorders and any other recordings;
- (d) arrange for the read out of the flight recorders without delay;
- (e) arrange for an expeditious autopsy or medical examination of the crew, passengers and other persons and have immediate access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;
- (f) have immediate access to the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people;
- (g) call and examine witnesses and require them to produce information or evidence relevant to the investigation; and
- (h) have free access to any relevant information or records held by the owner, the operator or the manufacturer of the aircraft, by the authorities responsible for civil aviation, air navigation services or airport operations.

(2) For the purposes of paragraph (1), an Investigator has power—

- (a) by summons under the Investigator's hand, to call before him or her and examine all persons as the Investigator thinks fit, require persons to answer questions or furnish information or produce books, papers, documents and articles which the Investigator may consider relevant, and to retain any such books, papers, documents and articles until the completion of the investigation;
- (b) to take statements from all persons as the Investigator thinks fit and to require any person to make and sign a declaration of the truth of the statement made by the person;
- (c) on production of the Investigator's credentials, where these are required, to enter and inspect any place, building or aircraft the entry or inspection of which appears to the Investigator to be requisite for the purposes of the investigation;
- (d) on production of the Investigator's credentials, when these are required, to remove, test, take measures for the preservation of or otherwise deal with any aircraft, other than an aircraft involved in the accident or incident, if it appears to the investigating Investigator requisite for the purposes of the investigation; and
- (e) to take any measures for the preservation of evidence the Investigator considers appropriate.

(3) A person summoned by an Investigator under paragraph (2)(a) is to be allowed expenses as the Governor determines.

Form and conduct of investigations

10. The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under these Regulations must be—

- (a) wholly independent of, and separate from, any judicial or administrative proceedings to apportion blame or liability;
- (b) co-ordinated with any investigation conducted by the judicial authorities;
- (c) determined by the Chief Investigator taking account of the purpose described in regulation 4 and the lessons the Chief Investigator expects to draw from the accident or incident for the improvement of aviation safety.

Investigation report

11. (1) On completion of an investigation into an accident or incident, the Investigator-in-Charge must prepare a Final Report of the investigation in a form, based on that prescribed in the Appendix to Annex 13 of the Convention, appropriate to the type and seriousness of the accident or incident.

(2) On completion of an investigation, the Chief Investigator must send a copy of the draft Final Report to the following States, inviting their significant and substantiated comments on the report as soon as possible—

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture; and
- (e) any other State that participated in the investigation,

and must take account of such comments received within 60 days on technical aspects of the draft Final Report and either amend the report to include the substance of the comments or, at the request of the State that provided the comments, append the comments upon which no agreement could be reached, to the Final Report.

(3) If it appears to the Investigator-in-Charge that the investigation of an accident or incident—

- (a) involving a collision between a civil aircraft and a military aircraft; or
- (b) occurring while a civil aircraft was on, or in the course of taking off from or landing on, an aerodrome controlled by a naval, military or air force or by the naval, military or air forces of any country,

has been completed, except for the investigation of matters affecting the discipline or internal administration of naval, military or air forces which are more appropriate for the investigation by some other person or body—

- (i) the investigation may be treated for the purpose of sub-regulation (1) as if it had been completed without such matters being investigated under these Regulations; and
- (ii) if paragraph (i) applies, the report of the investigation into the accident or incident must state the matters to which the investigation, by reason of this paragraph, has not extended.

(4) The Final Report of an investigation into an accident or incident must state the sole objective of the investigation as described in regulation 4 and, where appropriate, contain a list of findings, causes, causal factors and/or contributing factors and safety recommendations.

(5) The Chief Investigator must submit a copy of every Final Report prepared pursuant to sub-regulation (1) to the Governor without delay.

Notice of investigation report and representations

12. (1) If, in the Chief Investigator's opinion, publication of a report required by regulation 11 to be published is likely to adversely affect the reputation of a person, the Chief Investigator must not submit the Final report to the Governor for publication until he or she has—

- (a) if it appears to the Chief Investigator practicable to do so, served a notice on the person or, where the person is deceased, on the person who appears to the Chief Investigator to best represent the interest of the deceased at the time he or she proposes to serve the notice; and
- (b) made such changes to the report as the Chief Investigator thinks fit following consideration of representations made in accordance with sub-regulation (3) by or on behalf of the person served with the notice under paragraph (a).

(2) The notice referred to in sub-regulation (1)(a) must include particulars of any proposed analysis of facts and conclusions as to the cause or causes of the accident or incident which might affect the person on whom or in respect of whom the notice is served.

(3) Subject to sub-regulation (5), representations made pursuant to sub-regulation (1)(b) must be in writing and served on the Chief Investigator within 28 days of service of the notice or any longer period the Chief Investigator allows.

(4) A person must not disclose or permit to be disclosed any information contained in a notice or report served on the person pursuant to sub-regulations (1) or (4) to any other person without the prior consent in writing of the Chief Investigator.

(5) The Chief Investigator may, even if the period has expired, extend the period of 28 days referred to in sub-regulation (3).

(6) A person who contravenes or fails to comply with sub-regulation (4) commits an offence.

(7) No person may circulate, publish or give access to a draft report or any part of a draft report prepared by, or any documents obtained during an investigation of an accident or incident conducted by another State, without the consent of that State, unless such reports or documents have been released by that State.

Publication of reports

13. The Governor must cause the Final Report of an investigation into an accident or incident to be made public—

- (a) in the shortest time possible;

- (b) if possible, within 12 months of the date of the accident or incident; and
- (c) in a manner the Governor thinks fit.

Safety recommendations

14. (1) The Chief Investigator must cause the report referred to in regulation 13, and the safety recommendations contained in it, to be communicated to **the** ICAO and to all of the relevant undertakings or aviation authorities concerned in the States referred to in regulation 11(2).

(2) A safety recommendation in no case creates a presumption of blame or liability for an accident or incident.

(3) Without prejudice to the investigation or publication of the Final Report, at any stage of an investigation of an accident or incident, the Chief Investigator may recommend in a dated transmittal communication to the appropriate authorities, including those in other States and where appropriate the ICAO, any preventative action that he or she considers necessary to be taken promptly to enhance aviation safety.

(4) An undertaking or authority to which a safety recommendation is communicated pursuant to sub-regulation (1) must, without delay—

- (a) consider the safety recommendation and, if it considers it to be appropriate, act upon it; and
- (b) send to the Chief Investigator one of the following—
 - (i) full details of the measures, if any, it has taken or proposes to take to implement the recommendation without delay and, if it proposes to implement measures, the timetable for securing that implementation; or
 - (ii) a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and
- (c) give written notice to the Chief Investigator if at any time information provided to the Chief Investigator pursuant to paragraph (b)(i), concerning the measures it proposes to take or the timetable for securing their implementation, is rendered inaccurate by any change of circumstances.

Reopening of investigation

15. (1) If, after an investigation has been closed, new and significant evidence becomes available, the Chief Investigator may cause the investigation of an accident or incident to be reopened.

(2) An investigation that is reopened is subject to and must be conducted in accordance with these Regulations.

Accredited representatives, advisers and experts

16. (1) When an investigation of an accident or serious incident is being carried out by an Investigator pursuant to regulation 8, accredited representatives may be appointed by—

- (a) the State of Registry;
- (b) the State of Design;

- (c) the State of Manufacture;
- (d) the State of the Operator; and
- (e) a Contracting State which has, on request, provided information, facilities or experts to the Investigator in connection with the accident or serious incident.

(2) If an investigation of an accident or serious incident is being carried out by an Investigator pursuant to regulation 8, an expert may be appointed by a State which has a special interest in the accident by virtue of fatalities or serious injuries to its citizens.

(3) Accredited representatives may participate in the investigation and be permitted to—

- (a) visit the scene of the accident;
- (b) examine the wreckage;
- (c) obtain witness information and suggest areas of questioning;
- (d) receive copies of all pertinent documents, saving all just exceptions;
- (e) have full access to all relevant evidence as soon as possible;
- (f) participate in read outs of recorded media;
- (g) participate in off-scene investigative activities such as component examinations, technical briefings, tests and simulations;
- (h) participate in investigation progress meetings, including deliberations related to analysis, findings, causes and safety recommendations;
- (i) make submissions in respect of the various elements of the investigation; and
- (j) be accompanied by any advisers considered necessary by the authorities of the State by which the accredited representative is appointed.

(4) An expert representative as mentioned in sub-regulation (2) may participate in the investigation and be permitted to—

- (a) visit the scene of the accident;
- (b) have access to the relevant factual information which is approved for public release by the State conducting the investigation, and information on the progress of the investigation;
- (c) receive a copy of the Final Report; and
- (d) assist in the identification of victims and in meetings with survivors from their State.

Obstruction of investigation

17. (1) A person must not obstruct or impede an Investigator or any person acting under the authority of the Chief Investigator in the exercise of any powers or performance of any duties under these Regulations.

(2) A person must not without reasonable excuse fail, after having had the expenses, if any, to which the person is entitled under these Regulations tendered to him or her, to comply with any summons of an Investigator holding an investigation.

Disclosure of relevant records

18. (1) In this regulation—
“judicial proceedings” includes any proceedings before a court, tribunal or person having by law power to hear, receive and examine evidence on oath;

“Governor” includes any Investigator or officer under the jurisdiction of the Governor;
“relevant court” in the case of judicial proceedings or an application for disclosure means the courts of St Helena; and

“relevant record” means cockpit voice and flight data recordings and airborne image recordings and any transcripts from such recordings and any other records in the possession, custody or power of the Chief Investigator and includes—

- (a) all statements taken from persons by an Investigator or supplied to an Investigator in the course of his investigation, together with any notes or voice recordings of interviews;
- (b) all communications between persons having been involved in the operation of the aircraft;
- (c) medical or private information regarding persons involved in the accident or incident;
- (d) recordings and transcriptions of recordings from air traffic control units;
- (e) analysis of and opinions expressed about information, including flight recorder information, made in the investigation in relation to the accident or incident; and
- (f) the draft final report, except as mentioned in regulation 11(1).

(2) Subject to sub-regulations (3), (4), (5) and (6), no relevant record may be made available by the Chief Investigator or the Governor to any person for purposes other than an accident or incident investigation conducted under these Regulations.

(3) The records listed in paragraph (1) may be included in the Final Report or its appendices only when pertinent to the analysis of the accident or incident and parts of the records not relevant to the analysis must not be disclosed.

(4) The names of persons involved in an accident or incident must not be disclosed to the public by an Investigator.

(5) Sub-regulation (2) does not preclude the Governor or the Chief Investigator making a relevant record available to any other person if—

- (a) in a case where the other person is a party to or otherwise entitled to appear at judicial proceedings, the relevant court has ordered that the relevant record is to be made available to that person for the purpose of those proceedings; or
- (b) in any other circumstances, the relevant court has ordered that the relevant record is to be made available to that person for any other purpose.

(6) Subject to sub-regulation (7), no order may be made under paragraph (5) unless the relevant court is satisfied that the interests of justice in the circumstances in question outweigh any adverse domestic and international impact which disclosure might have on the investigation into the accident or incident to which the record relates or on any future accident or incident investigation undertaken in St Helena.

(7) A relevant record or part thereof is not to be treated as having been made available contrary to sub-regulation (2) in any case where that record or part is included in the Final Report, or the appendices to the Final Report, of the accident or included in a notice served under regulation 12.

(8) This regulation does not affect any rule of law which authorises or requires the withholding of any relevant record or any part of it on the ground that the disclosure of it

would be injurious to the public interest.

Offences and penalties

19. *Revoked*

Revocation

20. (1) The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2015 are revoked.

(2) Any investigation commenced under the Regulations revoked by sub-regulation (1), which has not been completed, must continue as if it had been commenced under these Regulations.

NOTICE MADE BY THE GOVERNOR PURSUANT TO ARTICLES 4, 5, 7 and 74 OF THE AIR NAVIGATION (OVERSEAS TERRITORIES) ORDER 2013, AS AMENDED

(S.I.2013/2870, S.I. 2014/2925, S.I. 2014/3281, S.I. 2015/1769)

(a) This Notice is given pursuant to articles 4, 5, 7 and 74 of the Air Navigation (Overseas Territories) Order 2013, as amended (“the Order”).

(b) Article 4 provides for the Governor to make regulations for prescribing anything that, under the provisions of the Order, is to be prescribed.

(c) Article 5 provides for the Governor to publish or provide access to requirements which he considers relevant to determining his satisfaction in respect of certain matters before granting a certificate, licence or other document issued under the provisions of the Order. I hereby determine pursuant to article 5(3) of the Order that to publish such requirements in relation to aviation security would be, or would likely to be, detrimental to national security. Therefore in accordance with article 5(4) of the Order, I require Air Safety Support International Ltd (“ASSI”) to make available the document specified in paragraph (f) of this Notice only to persons who in the opinion of ASSI have need of the said document to promote compliance with its provisions and in such cases to make it available in such a manner and in such form as it sees fit, consistent with promoting compliance with the said document.

(d) Article 7 provides, inter alia, for the Governor to issue such instructions as are necessary, requisite or expedient for carrying out the Chicago Convention and implementing any Annex thereto and any amendment to the Convention, or any such Annex made in accordance with the Convention, or generally for regulating and securing the safety of international air navigation.

(e) Article 74 provides for the Governor to give instructions in respect of the operation, safety and security of aircraft and the safety and security of persons and property carried therein and in respect of the instruments and equipment to be installed therein or carried thereon.

(f) The following document as amended or updated from time to time shall constitute those prescriptions, instructions and requirements as aforesaid in relation to the matters specified:

OTAR Part 178 Aviation Security.

(g) This Notice shall have effect from 1st April 2015.

Dated this 4th day of March, 2015
Mark Capes, Governor
