

**Memorandum for Executive Council**

**SUBJECT** Civil Aviation (Investigation of Air Accidents and Incidents)  
Regulations 2019

Memorandum by Acting Attorney General

**ADVICE SOUGHT** 1. Executive Council is asked to consider and advise whether the draft Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2019 for implementation under the Civil Aviation Act 1982 (Overseas Territories) Order 2001 be approved.

**BACKGROUND & CONSIDERATIONS** 2. These Regulations are to be made under S.75 of the Civil Aviation Act 1982, which is modified and extended to St Helena by virtue of the Civil Aviation Act 1985 (Overseas Territories) Order 2001. S.75 provides that Regulation to be made by the Governor as it 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”).*

3. These Regulations will bring Civil Aviation Accident and Investigation Regulations on St Helena into conformity with the current recommended safety standards as contained in Annex 13 of the Chicago Convention (as adopted by the UK and extended to St Helena) for the investigation of aircraft and aviation accidents or incidents. It will also address the amendments proposed in the International Civil Aviation Organisation State Letter dated 1 April 2018.

4. The following lists the notable changes from the current Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2016, which will be repealed by the new Regulations.
  - a. Regulation 5(2) and 8(4) provide for the UK Air Accident Investigation Branch (AAIB) to investigate an incident other than a serious incident where the AAIB expects to draw safety lessons from it in the interests of accident and incident prevention. This is to satisfy the proposed Amendment to Standard 4.1 to Annex 13.
  - b. In addition, Regulation 8(5) provides for the AAIB to investigate an accident occurring in an Overseas Territory to an aircraft involved in military, customs, police or similar activities. This corresponds with a similar provision in the UK regulations.
  - c. Regulation 8(1) provides for the designation of the AAIB as the accident investigation authority as required by Standard 3.2 to Annex 13.
  - d. Bearing in mind the remoteness of the AAIB from the site of any accident occurring in an Overseas Territory (OT), Regulation 8(10) makes provision for the nomination in each OT of some person or body to facilitate the securing the wreckage and other evidence pending the arrival on site of an AAIB Investigator.
  - e. Regulation 8(13) provides for the authorities in an OT to render assistance to aircraft accident victims and families as required in answer to Protocol Question 6.383 and ICAO Manual on Assistance to Aircraft Accident Victims and their Families (Doc 9973). In practice - in the UK in accordance with Article 21 to EU Regulation 996/210 and also in the US and elsewhere - this obligation is placed primarily on the operator of a Commercial Air Transport aircraft.
  - f. Regulation 10 provides that the AAIB must have independence in, and unrestricted authority over, the conduct of an investigation as required by Standard 5.4 to Annex 13; but is required to coordinate any investigation, to the extent necessary, with any investigation conducted

by the judicial authorities, as required by Standard 5.10 to Annex 13.

- g. Regulation 13(2) relating to delay in publication of the final report of an accident is intended to satisfy Standard 6.6 to Annex 13.
- h. Regulation 17 collects together offences and contraventions of the regulations for which the penalty is prescribed by section 75(5) of the Civil Aviation Act 1982, as extended to the Territories by the Civil Aviation Act 1982 (Overseas Territories) Order 2001 (SI 2001 No. 1452).
- i. Regulation 19 makes provision for release, or disposal, of the aircraft, its wreckage and contents to the owner of the aircraft on completion of an investigation; and for recovery of the costs of such release or disposal from the owner.

**FINANCIAL  
IMPLICATIONS**

- 5. There are no direct financial implications. The AAIB costs will be covered by HMG in the event of an air accident on or around St Helena. Some SHG resourcing will be required i.e. the emergency services when initially responding to an air accident, but the changes to the Regulations have no additional costs associated with them than assumed at present.

**ECONOMIC  
IMPLICATIONS**

- 6. Almost all of the changes pertain to AAIB responsibility and arrangements, and therefore the liability (and therefore potential cost to SHG) does not worsen.

**CONSISTENCY  
WITH  
INVESTMENT  
POLICY  
PRINCIPLES  
PUBLIC / SOCIAL  
IMPACT**

- 7. Investment Policy Principles are not applicable to the proposed amendment.
- 8. No additional impact as a result of a change to existing legislation.

**ENVIRONMENTAL  
IMPACT**

- 9. No additional impact as a result of a change to existing legislation.

**PREVIOUS  
CONSULTATION /  
COMMITTEE  
INPUT**

- 10. Endorsed by the Economic Development Committee on 4 July 2019.

**PUBLIC  
REACTION**

- 11. Unlikely to be any public reaction.

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**PUBLICITY**

12. Announcement in ExCo Report and associated broadcast. No other publicity required.

**SUPPORT TO STRATEGIC OBJECTIVES**

13. Although not directly linked to a strategic objective, the proposed amendments will support the theme of ‘Maintaining physical access to the Island for our people and goods’ by ensuring legislation is in place to deal with an aircraft accident or incident should it occur.

It does, however, demonstrate St Helena’s commitment to maintaining an airport to international standards and as such, maintaining its commitment to the highest levels of safety in civil aviation environment. That commitment to safety extends to the provision of air accident and incident investigations by a State-approved organisation (AAIB)

**LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS**

14. This paper does not directly support any of the SEDP goals per se, rather it specifies the process by which an air accident is handled and investigated, and therefore is supporting legislation to enable access to the Island via air transportation.

*ATC*

**OPEN /CLOSED AGENDA ITEM**  
Corporate Support  
Corporate Services

15. Open

*10<sup>th</sup> July 2019*