



## ASCENSION

### REVISED EDITION OF THE LAWS, 2017

### MARITIME & AVIATION LAW

#### AVIATION LAWS

#### **CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS) REGULATIONS, 2018**

*(Made by the Governor under section 75 of the Civil Aviation Act 1982 as extended to Ascension by Article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order) 2001<sup>1</sup>*

<sup>1</sup> [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 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

**CIVIL AVIATION ACT (U.K. 1982)  
CIVIL AVIATION ACT 1982 (OVERSEAS TERRITORIES) ORDER 2001**

***CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS)  
(ASCENSION) REGULATIONS, 2018***

**Citation and commencement**

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents)(Ascension) Regulations, 2018, and shall come into force on 12<sup>th</sup> January 2018.

**Interpretation**

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, 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

(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;
- “Contracting State”** means any State which is party to the Chicago Convention;
- “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;
- “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 is associated with the operation of an aircraft; and
- “serious injury”** means an injury which is sustained by a person in an accident and which—
- (a) requires hospitalisation for more than 48 hours, commencing within seven days from the date the injury was received; or
  - (b) results in a fracture of a bone, excluding 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 an 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 harmful radiation;

and references to “seriously injured” in these Regulations shall 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 Ascension 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 shall 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) Where 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 shall—

- (a) give notice of the accident or incident to the Governor, the Chief Investigator and to the designated authority for civil aviation regulation in Ascension by the quickest means of communication available; and
  - (b) where an accident occurs in or over Ascension, 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 Ascension, or occurring elsewhere to an aircraft registered in Ascension, the pilot in command of the aircraft involved at the time of the accident or serious incident or, if the pilot in command be 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 Ascension but operated by an undertaking established in Ascension, the undertaking.
- (3) The notice to the Chief Investigator referred to in paragraph (1) shall 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 shall 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) ICAO, when the aircraft involved is of a maximum mass of over 2,250kg or is a turbo-jet powered aircraft.

(5) The owner, operator, pilot in command or hirer of the aircraft shall, if so required by notice in writing given to him by the Chief Investigator, send to the Chief Investigator such information as is in his possession or control, in such form and at such times as may be specified in the notice.

(6) Upon receipt of notification of an accident or a serious incident occurring outside Ascension involving an aircraft registered in Ascension or of which Ascension is the State of the operator, the operator of the aircraft shall, 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 the provisions of paragraph (6), the Chief Investigator shall inform the authorities of the State conducting the investigation whether Ascension 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 paragraphs (2) and (3) and regulation 9, where an accident or serious incident occurs in or over Ascension—

- (a) no person other than an authorised person shall have access to the aircraft involved in the accident or serious incident; and
- (b) neither the aircraft nor its contents shall, except under the authority of the Chief Investigator or the Investigator-in-Charge, be removed or otherwise interfered with; and
- (c) the Chief Investigator, the Investigator-in-Charge, or persons authorised on his behalf, shall take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of an investigation;
- (d) the Chief Investigator, the Investigator-in-Charge or person authorised on his behalf, shall 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 paragraph (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; or
  - (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) where an aircraft is in water, the aircraft or any of its contents may be removed to such extent as may be necessary for bringing the aircraft or the contents to a place of safety.

**(3)** The Chief Investigator or the Investigator-in-Charge shall release custody of the aircraft, its contents or any parts thereof 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;
- (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 shall appoint a Chief Investigator who will appoint persons as air accident investigators, one of whom shall be appointed as the Investigator in Charge.

**(2)** Subject to paragraphs (4) and (5), the Chief Investigator shall carry out, or cause an Investigator to carry out, an investigation into—

- (a) accidents and serious incidents which occur in or over Ascension;

- (b) accidents and serious incidents which occur to aircraft registered in Ascension 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 Ascension but which are operated by an undertaking established in Ascension when such an investigation is not carried out by another State; and
- (3) Subject to paragraphs (4) and (5), the Chief Investigator may, where he 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 Ascension; or
  - (b) otherwise than in or over Ascension to an aircraft registered in Ascension.
- (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 organization by mutual arrangement and consent.
- (5) Where the Chief Investigator delegates the task of carrying out an investigation pursuant to paragraph (4), the Chief Investigator shall to the extent possible facilitate inquiries by the Investigator-in-Charge appointed by the relevant State.
- (6) Without prejudice to the power of an Investigator to seek such advice or assistance as the Investigator may deem 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 Ascension 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 shall 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 shall immediately initiate action to ensure that the aviation security authorities of Ascension are informed.

### **Powers and duties of Investigators**

9. (1) An Investigator is authorised, for the purpose of enabling him 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 to 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 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 him;
  - (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 whereof appears to the Investigator to be requisite for the purposes of the investigation;
  - (d) on production of the Investigator's credentials, where 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, where it appears to the investigating Investigator requisite for the purposes of the investigation; and
  - (e) to take such measures for the preservation of evidence as the Investigator considers appropriate.
- (3) A person summoned by an Investigator under paragraph (2)(a) shall be allowed such expenses as the Governor may determine.

### **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 shall be—
- (a) wholly independent of, and separate from, any judicial or administrative proceedings to apportion blame or liability;
  - (b) coordinated 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 shall prepare a Final Report of the investigation in a form, 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 shall 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 shall take account of such comments received within 60 days on technical aspects of the 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)** Where 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 paragraph (1) as if it had been completed without such matters being investigated under these regulations; and
- (ii) where sub-paragraph (i) applies, the report of the investigation into the accident or incident shall state the matters to which the investigation, by reason of this paragraph, has not extended.

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

(5) The Chief Investigator shall submit a copy of every report prepared pursuant to paragraph (1) to the Governor without delay.

### **Notice of investigation report and representations**

**12. (1)** Where, in the Chief Investigator's opinion, publication of a report required by regulation 13 to be published is likely to adversely affect the reputation of a person, the Chief Investigator shall not submit the Final report to the Governor for publication until he has—

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

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

(3) Subject to paragraph (5), representations made pursuant to sub-paragraph (b) of paragraph (1) shall be in writing and served on the Chief Investigator within 28 days of service of the notice or such longer period as the Chief Investigator may allow.

(4) No person shall disclose or permit to be disclosed any information contained in a notice or report served on such person pursuant to paragraphs (1) or (4) to any other person without the prior consent in writing of the Chief Investigator.

(5) The Chief Investigator may, notwithstanding that the period has expired, extend the period of 28 days referred to in paragraph (3).

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

(7) No person shall circulate, publish or give access to a draft report or any part thereof, 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 shall cause the Final Report of an investigation into an accident or incident to be made public—

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

### **Safety recommendations**

**14. (1)** The Chief Investigator shall cause the report referred to in regulation 13, and the safety recommendations contained in it, to be communicated to 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 shall in no case create 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 ICAO, any preventative action that he considers necessary to be taken promptly to enhance aviation safety.

**(4)** An undertaking or authority to which a safety recommendation is communicated pursuant to paragraph (1) shall, without delay—

- (a) consider the safety recommendation and, where 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, where 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 where at any time information provided to him pursuant to sub-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 shall be subject to and conducted in accordance with these Regulations.

### **Accredited representatives, advisers and experts**

**16. (1)** Where 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, furnished information, facilities or experts to the Investigator in connection with the accident or serious incident.

**(2)** Where 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 such advisers as may be considered necessary by the authorities of the State by which the accredited representative is appointed.
- (4) An ‘Expert’ representative 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; and
  - (c) receive a copy of the Final Report;
  - (d) assist in the identification of victims and in meetings with survivors from their State.

### **Obstruction of investigation**

17. (1) No person shall obstruct or impede an Investigator or any person acting under the authority of the Chief Investigator in the exercise of any powers or duties under these Regulations.

(2) No person shall without reasonable excuse fail, after having had the expenses, if any, to which he is entitled under these Regulations tendered to him, 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 Ascension; 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 which 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 paragraphs (3), (4), (5) and (6), no relevant record shall 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) shall 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 shall not be disclosed.

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

(5) Nothing in paragraph (2) shall preclude the Governor or the Chief Investigator making a relevant record available to any other person where—

- (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 shall 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 shall be made available to that person for any other purpose.

(6) Subject to paragraph (6), no order shall 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 may have on the investigation into the accident or incident to which the record relates or on any future accident or incident investigation undertaken in Ascension.

(7) A relevant record or part thereof shall not be treated as having been made available contrary to paragraph (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) The provisions of this regulation apply without prejudice to any rule of law, which authorises or requires the withholding of any relevant record or any part thereof on the ground that the disclosure of it would be injurious to the public interest.

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