4. In the Schedule to this Order account has been taken of constitutional changes which have occurred since the 1939 Order was made. The States of Cambodia, Laos, Viet Nam, the Republic of the United States of Indonesia and the Republic of the Philippines are included in the Schedule as High Contracting Parties. Australia, Burma, Canada, Ceylon, India, New Zealand, Pakistan, and the Republic of Ireland, in respect of whose territories His Majesty the King was shown as High Contracting Party in previous Orders, are now themselves certified as High Contracting Parties.

INVESTIGATION OF ACCIDENTS

The Civil Aviation (Investigation of Accidents) Regulations, 1951

1951 No. 1653

Made - - - - *5th September*, 1951
Coming into Operation *1st October*, 1951

In exercise of the powers conferred on him by section 10 of the Civil Aviation Act, 1949(a), and of all other powers enabling him in that behalf, the Minister of Civil Aviation hereby makes the following Regulations:—

Interpretation and application of Regulations

1.—(1) in these Regulations, unless the context otherwise requires—

(*a*) " the Minister " means the Minister of Civil Aviation ;

(*b*) " the Act " means the Civil Aviation Act, 1949, and includes any Order or Regulation made or having effect as if made under the Act ;

(*c*) " aircraft " includes all balloons (whether captive or free), gliders, airships and flying machines ;

(*d*) " accident " includes any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened ;

(*e*) references to the United Kingdom include references to the territorial waters adjacent thereto ;

(*f*) " owner " means, where an aircraft is registered, registered owner ;

(*g*) " substantial damage " includes any damage which necessitates the replacement or extensive repair of any major component.

(2) References in these Regulations to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as re-enacted in or as amended by or under any subsequent enactment.

(3) The Interpretation Act, 1889(b), shall apply for the purpose of the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament, and as if these Regulations were an Act of Parliament.

2. These Regulations relate to civil aviation only and shall apply to accidents arising out of or in the course of air navigation which occur to any civil aircraft in or over the United Kingdom, or elsewhere to civil aircraft registered in the United Kingdom.

(a) 12, 13 & 14 Geo. 6. c. 67. (b) 52 & 53 Vict. c. 63.

Notification of Accidents

3. An accident shall be notified in accordance with the provisions of Regulation 4 if, between the time when any person boards an aircraft with the intention of flight and such time as all persons have disembarked therefrom

(*a*) any person suffers death or serious injury while in or upon the aircraft or by direct contact with the aircraft or anything attached thereto; or

(*b*) the aircraft receives substantial damage.

4.—(1) Where an accident occurs of which notification is required to be given under Regulation 3, the person in command of the aircraft involved at the time of the accident, or if he be killed or incapacitated, then the owner, operator, hirer, or other person on whose behalf he was in command of the aircraft, as the case may be, shall forthwith send notice thereof to the Minister by the quickest means of communication available and in the case of an accident occurring in or over the United Kingdom shall also notify forthwith the local police authorities of the accident and of the place where it occurred.

(2) The notice to the Minister referred to in paragraph (1) of this Regulation shall state as far as possible—

(*a*) the type, and the nationality and registration marks of the aircraft;

(*b*) the name of the owner, operator and hirer if any, of the aircraft;

(*c*) the name of the person in command of the aircraft;

(*d*) the date and Greenwich mean time of the accident;

(*e*) the last point of departure and the next point of intended landing of the aircraft;

(*f*) the position of the aircraft with reference to some easily defined geographical point;

(*g*) the number of persons (if any)

(i) killed,

(ii) seriously injured,

as the result of the accident;

(*h*) the nature of the accident as far as is known;

(*i*) brief particulars of damage to the aircraft.

(3) Where an accident to which these Regulations apply occurs, whether in or over the United Kingdom or elsewhere, the owner, operator or hirer of the aircraft shall, if so required by notice in writing from the Minister, send to the Minister within such time as may be specified in the notice, such information with respect thereto in such form as the Minister may require.

Removal of damaged aircraft

5.—(1) Where an accident occurs in or over the United Kingdom, of which notification is required to be given under Regulation 3, no person other than an authorised person shall have access to the aircraft involved in the accident and the aircraft shall not except under the authority of the Minister, be removed or otherwise interfered with:

Provided that—

(i) the aircraft may be removed or interfered with so far as may be necessary for the purpose of extricating persons or animals involved, removing any mails carried by the aircraft, preventing destruction by fire or other cause, or preventing any danger or obstruction to the public or to air navigation or to other transport;

(ii) goods or passengers' baggage may be removed from the aircraft under the supervision of an officer of police, but, if the aircraft has come from a place outside the United Kingdom, shall not be removed from the vicinity of the aircraft except on clearance by or with the consent of an officer of Customs and Excise ;

(iii) if an aircraft is wrecked on the water, the aircraft or any contents thereof may be removed to such extent as may be necessary for bringing it or them to a place of safety.

(2) In this Regulation the expression " authorised person " means any person authorised by the Minister either generally or specially to have access to any aircraft involved in an accident and includes any officer of police or any officer of Customs and Excise.

Inspector's Investigation

6.—(1) For the purpose of carrying out investigations into the causes and circumstances of accidents to which these Regulations apply the Minister shall appoint persons as Inspectors of Accidents, one of whom shall be appointed by him as Chief Inspector of Accidents.

(2) The Chief Inspector of Accidents, if he thinks fit, may himself carry out an investigation or cause an investigation to be carried out by an Inspector of Accidents of any accident to which these Regulations apply, whether or not such accident is one whereof notification is required to be given under Regulation 3.

(3) Public notice that such investigation is taking place shall be given in such manner as the Minister may think fit and shall state that any person who may desire to make representations concerning the circumstances or causes of the accident may do so in writing within a time to be specified in the notice.

7. With respect to any Inspector's Investigation, the following provisions of this Regulation shall have effect:—

(1) The Inspector of Accidents by whom the investigation is made (in this Regulation referred to as " the Inspector ") shall have power:—

(*a*) by summons under his hand to call before him and examine all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce any books, papers, documents and articles which the Inspector 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 such persons as he thinks fit and to require any such person to make and sign a declaration of the truth of the statement made by him ;

(*c*) to have access to and examine any aircraft involved in the accident and the place where the accident occurred, and for that purpose to require any such aircraft or any part or equipment thereof to be preserved unaltered pending examination ;

(*d*) to examine, remove, test, take measures for the preservation of, or otherwise deal with the aircraft or any part thereof or anything contained therein ;

(*e*) to enter and inspect any place or building the entry or inspection whereof appears to the Inspector to be requisite for the purposes of the investigation ;

(*f*) to take measures for the preservation of evidence.

(2) Where an accident has occurred in or over the United Kingdom to an aircraft registered in any country other than the United Kingdom, the Minister may authorise an investigator appointed by the duly competent authority of that other country to carry out an investigation, and in that event the Minister shall so far as he is able facilitate inquiries by the investigator so appointed;

(3) The investigation shall be held in private;

(4) Where it appears to the Inspector that in order to resolve any conflict of evidence or that for any other reason it is expedient so to do, he may permit any person to appear before him and call evidence and examine witnesses;

(5) Where it appears to the Inspector that any degree of responsibility for the accident may be attributed to any person, and if it appears to the Inspector to be practicable so to do, that person or, if he be deceased, his legal personal representatives shall be given notice that blame may be attributed to him and be permitted to make a statement or give evidence and to produce witnesses and to examine any witnesses from whose evidence it appears that he may be blameworthy;

(6) The Attorney-General may intervene at any stage of an investigation in order to make representations or to examine witnesses, if it appears to him expedient so to do in the public interest;

(7) Every person summoned by the Inspector as a witness in accordance with this Regulation shall be allowed such expenses as the Minister, with the approval of the Treasury, may from time to time determine.

8. Upon the completion of an investigation, the Chief Inspector of Accidents, or such other Inspector as may be authorised by the Minister, shall make a report to the Minister. He shall state the circumstances of the case and his conclusions as to the cause of the accident, adding any observations and recommendations which he thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future. He shall also state to what extent effect has been given to the provisions of paragraph (5) of Regulation 7. The Minister may cause the whole or any part of such report to be made public in such manner as he thinks fit.

Public Inquiries

9.—(1) Where it appears to the Minister that it is expedient to hold a Public Inquiry into the causes and circumstances of an accident to which these Regulations apply, he may direct that a Public Inquiry be held by a Commissioner appointed by the Lord Chancellor; and in any such case any Inspector's investigation relating to the accident shall be discontinued;

(2) The Commissioner (hereinafter called " the Court ") shall be a barrister of not less than ten years standing. The Court shall be assisted by not less than two Assessors possessing aeronautical, engineering or other special skill or knowledge, one of whom may be the Chief Inspector of Accidents, or one of the Inspectors of Accidents. The Assessors shall be appointed by the Lord Chancellor;

(3) Where the Minister has directed a Public Inquiry to be held, he shall remit the case to the Attorney-General, and thereafter the preparation and presentation of the case shall be conducted by the Treasury Solicitor under the direction of the Attorney-General; the Chief Inspector of Accidents shall render such assistance to the Court and to the Attorney-General as is in his power and for that purpose shall have the powers conferred by paragraph (1) of Regulation 7 on an Inspector of Accidents with respect to an Inspector's Investigation;

(4) Every *Public* Inquiry held under these Regulations shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence ;

(5) When a Public Inquiry has been ordered the Attorney-General may cause a notice, to be called a notice of inquiry, to be served upon the owner, operator, hirer and person in command of any aircraft involved in the accident, as well as upon any person who in his opinion ought to be served with such notice. The notice shall contain a statement of the questions which on the information then in the possession of the Attorney-General he intends to raise on the hearing of the inquiry, and the Attorney-General may, at any time before the hearing of the inquiry, by a subsequent notice amend, add to, or omit any of the questions specified in the notice of inquiry ;

(6) The Attorney-General, the owner, the operator, the hirer, the person in command and any other person upon whom a notice of inquiry has been served, shall be deemed to be parties to the proceedings ;

(7) Any other person, including the Minister, may, by leave of the Court appear, and any person who so appears shall thereupon become a party to the proceedings ;

(8) (i) The Court shall have, for the purposes of the inquiry, all the powers of a Court of Summary Jurisdiction when acting as a Court in the exercise of its ordinary jurisdiction, and without prejudice to those powers, the Court may

(*a*) enter and inspect, or authorise any person to enter and inspect, any place or building entry or inspection whereof appears to the Court requisite for the purposes of the inquiry ;

(*b*) by summons require the attendance as witnesses of all such persons as the Court thinks fit to call and examine, and require such persons to answer any questions or furnish any information or produce any books, papers, documents and articles which the Court may consider relevant ;

(*c*) administer the oath to any such witness, or require any witness to make and sign a declaration of the truth of the statements made by him in his examination ;

(ii) the Assessors shall have the same power of entry and inspection as the Court ;

(9) Affidavits and statutory declarations may, by permission of the Court and saving all just exceptions, be used as evidence at the hearing ;

(10) At the time and place appointed for holding the inquiry the Court may proceed with the inquiry whether the parties, upon whom a notice of inquiry has been served, or any of them are present or not ;

(11) The Court shall hold the inquiry in open Court save to the extent to which the Court is of opinion that in the interest of justice or in the public interest any part of the evidence, or any argument relating thereto, should be heard in camera ;

(12) The proceedings on the inquiry shall commence with the production and examination of witnesses on behalf of the Attorney-General. These witnesses, after being examined on behalf of the Attorney-General, may be cross-examined by the parties in such order as the Court may direct, and may then be re-examined on behalf of the Attorney-General. Questions asked

and documents tendered as evidence in the course of the examination of these witnesses shall not be open to objection merely on the ground that they do or may raise questions which are not contained in or which vary from the questions specified in the notice of inquiry or subsequent notices referred to in paragraph (5) of this Regulation ;

(13) When the examination of the witnesses produced on behalf of the Attorney-General has been concluded, the Attorney-General shall state the questions in reference to the accident and the conduct of persons connected with the accident upon which the opinion of the Court is desired. In framing the questions for the opinion of the Court, the Attorney-General shall make such modifications in, additions to or omissions from the questions in the notice of inquiry or subsequent notices referred to in paragraph (5) of this Regulation, as, having regard to the evidence which has been given, the Attorney-General or the Court may think fit ;

(14) After the questions for the opinion of the Court have been stated, the Court shall proceed to hear the parties to the proceedings upon and determine the questions so stated. Each party to the proceedings shall be entitled to address the Court and produce witnesses or recall any of the witnesses who have already been examined for further examination and generally adduce evidence. The parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the Court shall direct. Further witnesses may also be produced and examined on behalf of the Attorney-General and may be cross-examined by the parties and re-examined on behalf of the Attorney-General ;

(15) When the whole of the evidence in relation to the questions for the opinion of the Court has been concluded any of the parties who desires so to do may address the Court upon the evidence and the Court may be addressed in reply upon the whole case on behalf of the Attorney-General ;

(16) The Court may adjourn the inquiry from time to time and from place to place, and where an adjournment is asked for by any party to the inquiry, the Court may impose such terms as to payment of costs or otherwise as it may think just as a condition of granting the adjournment ;

(17) The Court shall make a report to the Minister stating fully the circumstances of the case and the opinion of the Court touching the causes of the accident and adding any observations and recommendations which the Court thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future, including a recommendation for the cancellation, suspension or endorsement of any licence, certificate or other document ;

(18) Each Assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and such reservations or dissent and reasons (if any) shall be forwarded to the Minister with the report. The Minister shall unless there are good reasons to the contrary cause any such report and reservations or dissent and reasons (if any) to be made public wholly or in part in such a manner as he thinks fit ;

(19) Every person attending as a witness before the Court shall be allowed such expenses as would be allowed to a witness attending before a Court of Record, and in case of dispute as to the amount to be allowed, the

same shall be referred by the Court to a Master of the Supreme Court who on request signed by the Court shall ascertain and certify the proper amount of the expenses, provided that, in the case of any party to the proceedings or of any person in the employment of such a party, any such expenses may be disallowed if the Court in its discretion so directs;

(20) The Court may order the costs and expenses of the inquiry, or any part thereof, to be paid by any party, if it finds that the accident was due to the act or default or negligence of that party or of any person in the employment of that party; and any such order shall, on the application of any person entitled to the benefit thereof, be enforced by a Court of Summary Jurisdiction as if the costs and expenses were a penalty imposed by that Court, but, subject to any such order, such costs and expenses shall be deemed to be part of the expenses of the Minister in the exercise of his powers under the Act;

(21) Any notice, summons or other document issued under this Regulation may be served by sending the same by registered post to the last known address of the person to be served;

(22) The service of any notice, summons or other document may be proved by the oath or affidavit of the person by whom it was served.

Rehearing of Public Inquiries

10.—(1) The Minister may, in any case where a Public Inquiry has been held, direct a rehearing of the inquiry either generally or as to any part thereof and shall do so

(*a*) if new and important evidence which could not be produced at the inquiry has been discovered, or

(*b*) if for any other reason there is in his opinion ground for suspecting that a miscarriage of justice has occurred;

(2) If the Minister directs any inquiry to be reheard, the Lord Chancellor may order that the inquiry shall be reheard either by the Court by whom the inquiry was heard in the first instance or by some other person appointed by him to hold the rehearing;

(3) Any rehearing shall be subject to and conducted in accordance with the provisions of these Regulations relating to the holding of Public Inquiries.

General

11. Where an Inspector's Investigation or a Public Inquiry relates to an accident which has occurred in or over the United Kingdom to an aircraft registered in any country other than the United Kingdom, an accredited representative of the country in which the aircraft is registered, or of any country which has, on request, furnished information in connection with the accident, may take part in the investigation or in the inquiry as the case may be; he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the country by which he is appointed.

12.—(1) A person shall not obstruct or impede the Court or an Inspector of Accidents or an Assessor or any person acting under the authority of the Minister in the exercise of any powers or duties under these Regulations;

(2) A person shall not without reasonable excuse (proof whereof shall lie on him) fail after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of the Court holding a Public Inquiry or an Inspector of Accidents holding an Inspector's Investigation under these Regulations.

13.—(1) Nothing in these Regulations shall limit the powers of any authority under sections 530 to 537 inclusive of the Merchant Shipping Act, 1894;

(2) Nothing in these Regulations shall limit the power of the Minister under the Act of cancelling, suspending or endorsing any licence, certificate or other document.

14. In the application of these Regulations to Scotland:—

(*a*) for any reference to the Lord Chancellor there shall be substituted a reference to the Lord President of the Court of Session;

(*b*) for any reference to the Attorney-General there shall be substituted a reference to the Lord Advocate;

(*c*) for any reference to a barrister there shall be substituted a reference to an advocate;

(*d*) for any reference to a summons there shall be substituted a reference to an order;

(*e*) for any reference to a witness attending before a Court of Record there shall be substituted a reference to a witness attending an inquiry under the Fatal Accidents Inquiry (Scotland) Act, 1895(**a**);

(*f*) for any reference to a Master of the Supreme Court there shall be substituted a reference to the Auditor of a Sheriff Court;

(*g*) paragraph (3) of Regulation 9 shall have effect as if the reference to the Treasury Solicitor were omitted;

(*h*) any order under paragraph (20) of Regulation 9 may be recorded for execution in the books of Council and Session and shall be enforceable accordingly.

15. In the application of these Regulations to Northern Ireland:—

For any reference—

(*a*) to the Lord Chancellor, there shall be substituted a reference to the Lord Chief Justice of Northern Ireland;

(*b*) to the Attorney-General, there shall be substituted a reference to the Attorney-General for Northern Ireland;

(*c*) to the Treasury Solicitor, there shall be substituted a reference to the Chief Crown Solicitor for Northern Ireland;

(*d*) to a barrister, there shall be substituted a reference to a barrister practising in Northern Ireland;

(*e*) to a Court of Record, there shall be substituted a reference to the High Court of Justice in Northern Ireland or any judge thereof;

(*f*) to a Master of the Supreme Court, there shall be substituted a reference to the Taxing Master of the Supreme Court of Judicature of Northern Ireland;

(*g*) to a Court of Summary Jurisdiction, there shall be substituted a reference to a Court of Summary Jurisdiction constituted in accordance with the provisions of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935, or any other Act of the Parliament of Northern Ireland for the time being in force;

(**a**) 58 & 59 Vict. c. 36.

(*h*) to local police authorities, there shall be substituted a reference to a district inspector or head constable of the Royal Ulster Constabulary having authority in the district, or in a district contiguous to that, in or over which an accident occurs ;

(*i*) to an officer of police, there shall be substituted a reference to an officer, head constable or sergeant of the Royal Ulster Constabulary.

16.—(1) These Regulations may be cited as the Civil Aviation (Investigation of Accidents) Regulations, 1951, and shall come into operation on the first day of October, 1951.

(2) The Air Navigation (Investigation of Accidents) Regulations, 1922(**a**), the Air Navigation (Investigation of Accidents) Regulations, 1925(**b**), the Air Navigation (Investigation of Accidents) Regulations, 1930(**c**), and the Air Navigation (Investigation of Accidents) Regulations, 1935(**d**), in their application to the United Kingdom are hereby revoked.

(3) The revocation of the Air Navigation (Investigation of Accidents) Regulations, 1922 to 1935, shall not affect any investigation commenced under those Regulations, and any such investigation may be continued as if these Regulations had not been made.

Dated this fifth day of September, 1951.

Ogmore,
Minister of Civil Aviation.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations, made under Section ten of the Civil Aviation Act, 1949, revoke and replace the Air Navigation (Investigation of Accidents) Regulations, 1922 to 1935, in their application to the United Kingdom. These Regulations embody the provisions of the revoked Regulations and revise and amplify them to accord with current requirements and to bring them into line with Annex 13 of the International Civil Aviation Convention as adopted by the Council of the International Civil Aviation Organisation on 11th April, 1951.

The Regulations introduce new arrangements for Public Inquiries including procedures analogous to those established for shipping accidents.

(**a**) S.R. & O. 1922 (No. 650) p. 51.
(**b**) S.R. & O. 1925 (No. 1099) p. 14.
(**c**) S.R. & O. 1930 (No. 840) p. 34.
(**d**) S.R. & O. 1935 (No. 381) p. 118.