STATUTORY INSTRUMENTS

1969 No. 1437

CIVIL AVIATION

The Air Navigation (Investigation of Combined Military and Civil Air Accidents) Regulations 1969

Made - - - - 6*th October* 1969
Coming into Operation 1*st November* 1969

The Secretary of State for Defence and the Board of Trade acting jointly in exercise of their powers under section 10 of the Civil Aviation Act 1949(**a**), as amended(**b**), and the Civil Aviation Act (Application to Crown Aircraft) Order 1959(**c**), as having effect by virtue of the Transfer of Functions (Civil Aviation) Order 1966(**d**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and Operation

1. These Regulations may be cited as the Air Navigation (Investigation of Combined Military and Civil Air Accidents) Regulations 1969 and shall come into operation on 1st November 1969.

Interpretation

2.—(1) The Interpretation Act 1889(**e**) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament and as if these Regulations and the Regulations hereby revoked were Acts of Parliament.

(2) In these Regulations, unless the context otherwise requires:

(*a*) "appropriate authority" has the meaning assigned to that expression by Regulation 4(4);

(*b*) "the Board" means the Board of Trade;

(*c*) "commander" in relation to a civil aircraft means the member of the crew designated as commander of that aircraft by the operator thereof, or failing such a person, the person who is for the time being the pilot in command of the aircraft, and in relation to a military aircraft means the person who is for the time being the pilot in command of that aircraft;

(*d*) "operator" in relation to a civil aircraft means the person for the time being having the management of that aircraft;

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

(*f*) "pilot in command" in relation to an aircraft means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

(**a**) 1949 c. 67. (**b**) The relevant amendment is section 23 of the Civil Aviation Act 1968 c. 61.
(**c**) S.I. 1959/1309 (1959 I, p. 682). (**d**) S.I. 1966/741 (1966 II, p. 1732).
(**e**) 1889 c. 63.

(*g*) " substantial damage" includes any damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft and which would normally require the major repair or replacement of the affected component ;

(*h*) references to the Chief Inspector are references to the person for the time being appointed by the Board to be the Chief Inspector of Accidents for the purposes of any Regulations made by the Board under section 10 of the Civil Aviation Act 1949, as amended, and references to an Inspector are references to any person for the time being appointed by the Board as an Inspector of Accidents for the purposes of any such Regulations ;

(*i*) references to a civil aircraft include references to any civil aircraft belonging to or exclusively employed in the service of Her Majesty.

(3) For the purposes of these Regulations, and of section 26 of the Interpretation Act 1889 in its application to these Regulations, a document may be served on any person by sending it by post in a letter addressed to that person at his last or usual place of abode or place of business.

(4) An aircraft shall be treated for the purposes of these Regulations as being a military aircraft at any time if, but only if—

(*a*) it was at that time an aircraft belonging to any of Her Majesty's naval, military or air forces, or

(*b*) not being such an aircraft as last aforesaid it was at that time an aircraft belonging to any of the naval, military, or air forces of any country, or

(*c*) the Secretary of State for Defence or the Minister of Technology certifies that by reason of circumstances affecting the aircraft the aircraft ought to be treated for the purposes of these Regulations as being at that time a military aircraft.

Purpose of Accident Investigation

3. The main purpose of investigating accidents under these Regulations shall be to determine the circumstances and causes of the accident with a view to avoiding accidents in the future, rather than to ascribe blame to any person.

Accidents to which Regulations apply

4.—(1) Where a military aircraft is involved in an accident arising out of or in the course of air navigation and occurring in or over the United Kingdom or, if the aircraft belongs to Her Majesty, occurring anywhere, and the Board and either or both of the following authorities, that is to say, the Secretary of State for Defence or the Minister of Technology are of the opinion that—

(*a*) the accident is or may be the result of a collision between that aircraft and a civil aircraft, or

(*b*) the accident occurred or may have occurred while the aircraft was on, or in the course of taking off from or landing on, an aerodrome used wholly or mainly for the purposes of civil aviation, or

(*c*) the accident has or may have otherwise occurred in such circumstances that the Board are or may be concerned or interested in its circumstances or causes,

and that the accident ought to be investigated under these Regulations, the Board acting jointly with either or both of the said authorities may direct that the accident shall be treated as an accident to which these Regulations apply.

(2) Where a civil aircraft is involved in an accident arising out of or in the course of air navigation and occurring in or over the United Kingdom or, if the aircraft is registered in the United Kingdom or belongs to Her Majesty, occurring anywhere, and the Board and either or both of the following authorities, that is to say, the Secretary of State for Defence or the Minister of Technology are of the opinion that—

(*a*) the accident is or may be the result of a collision between that aircraft and a military aircraft, or

(*b*) the accident occurred or may have occurred while the aircraft was on, or in the course of taking off from or landing on, an aerodrome controlled by any of Her Majesty's naval, military or air forces or by the naval, military or air forces of any country, or

(*c*) the accident has or may have otherwise occurred in such circumstances that either or both of the last-mentioned authorities or any other authority of any of Her Majesty's naval, military or air forces or any authority of the naval, military or air forces of any country, is or may be concerned or interested in its circumstances or causes,

and that the accident ought to be investigated under these Regulations, the Board acting jointly with either or both of the said authorities may direct that the accident shall be treated as an accident to which these Regulations apply.

(3) Public notice of any direction made under this Regulation shall be given in such manner as the Board and the appropriate authority may think fit.

(4) References in these Regulations to an accident to which these Regulations apply are references to an accident in respect of which a direction has been given under the foregoing provisions of this Regulation and references in these Regulations to the appropriate authority are in relation to such an accident references to the person or persons acting jointly with the Board in giving such a direction in relation to that accident.

Duty to furnish information relating to accidents

5. Where a civil aircraft is involved in an accident to which these Regulations apply and the accident is not one in respect of which notification has been given previously in accordance with the Civil Aviation (Investigation of Accidents) Regulations 1969(**a**) the accident shall be notified in accordance with the provisions of Regulation 6 of these Regulations if, between the time when any person boarded the aircraft with the intention of flight and such time as all persons disembarked therefrom :

(*a*) any person has suffered 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 received substantial damage.

6.—(1) Where an accident occurs of which notification is required to be given under Regulation 5 the commander of the civil aircraft involved at the time of the accident, or if he be killed or incapacitated, then the operator of the aircraft shall forthwith give notice thereof to the Board 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.

(**a**) S.I. 1969/833 (1969 II, p. 2325).

(2) The notice to the Board referred to in paragraph (1) of this Regulation shall commence with the identifying abbreviation ACCID, and shall state as far as possible—

(*a*) the type, model 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 commander 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*) (i) the number of persons on board the aircraft at the time of the accident,

(ii) the number of those persons killed as a result of the accident,

(iii) the number of those persons seriously injured as the result of the accident,

(iv) the number of persons killed or seriously injured elsewhere than on the aircraft;

(*h*) the nature of the accident and brief particulars of damage to the aircraft as far as is known.

(3) Where a civil aircraft is involved in an accident to which these Regulations apply the owner, operator or hirer of the aircraft shall, if so required by notice in writing from the Board, send to the Board within such time as may be specified in the notice, such information with respect thereto in such form as the Board may require.

Removal of damaged aircraft

7.—(1) No person other than an authorised person shall have access to an aircraft involved in an accident to which these Regulations apply, being an accident occurring in or over the United Kingdom, and such an aircraft shall not, except under the authority of the Board or the appropriate authority be removed or otherwise interfered with:

Provided that, subject to the provisions of section 15(3) of the Customs and Excise Act 1952(**a**)—

(*a*) the aircraft may be removed or interfered with so far as may be necessary for the purpose of extricating persons or animals, 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 or, under the supervision of a constable, for the purpose of removing any other property from the aircraft;

(*b*) if an aircraft is wrecked on the water, the aircraft or any of its contents 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 Board or by the appropriate authority either generally or specially to have access to any aircraft involved in an accident and includes any constable or any officer of Customs and Excise.

(**a**) 1952 c. 44.

Inspectors of Accidents

8.—(1) The Chief Inspector, if he thinks fit, may himself carry out, or may cause an Inspector to carry out, an investigation of any accident to which these Regulations apply.

(2) Without prejudice to the power of an Inspector to seek such advice or assistance as he may deem necessary in making an investigation, the Board may at the request of the Chief Inspector appoint persons to assist any Inspector in a particular investigation and such persons shall for the purpose of so doing have such of the powers of an Inspector under these Regulations as may be specified in their appointment.

Power of Inspectors

9. For the purpose of the investigation of any accident to which these Regulations apply, an 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 or any inquiry held pursuant to Regulation 17 of these Regulations ;

(*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 or of any inquiry held as aforesaid ;

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

Inspector's Investigation

10.—(1) Public notice that an Inspector's investigation is taking place shall be given in such manner as the Chief Inspector may think fit and he shall invite any persons who desire to make representations concerning the circumstances or causes of the accident to do so in writing within a time to be specified in the notice.

(2) An Inspector's investigation shall be held in private.

(3) 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 to call evidence and examine witnesses.

(4) Every person summoned by the Inspector as a witness in accordance with these Regulations shall be allowed such expenses as the Board, with the approval of the Treasury, may determine.

11.—(1) Subject to paragraph (2) of this Regulation and Regulation 12, upon completion of an Inspector's investigation the Chief Inspector or such other Inspector as may be authorised by the Board shall make a report to

the Board and the appropriate authority jointly. The report shall state the circumstances of the accident and conclusions as to the cause together with any observations and recommendations which the person making the report thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in the future.

(2) If it appears to the Inspector carrying out the investigation or to the Chief Inspector that the investigation of any accident to which these Regulations apply has been completed but for the investigation of matters affecting the discipline or internal administration of any of Her Majesty's naval, military or air forces, or any of the naval, military or air forces of any foreign country, which are more appropriate for investigation by some other person or body, the investigation may be treated for the purposes of paragraph (1) of this Regulation as if it had been completed without such matters being investigated under these Regulations:

Provided that—

(*a*) any report under this Regulation shall specify any matters to which the investigation has not extended by reason of the foregoing provisions of this paragraph, and

(*b*) the Board and the appropriate authority may require the investigation of the accident to be resumed and completed to such extent as they may specify and that a further report shall be made thereon and in that event paragraph (1) of this Regulation and Regulation 12 shall apply in relation to that further report as they apply to other reports made on the completion of Inspectors' investigations.

Notice and Representations

12.—(1) No report shall be made to the Board and the appropriate authority under Regulation 11(1) of these Regulations in respect of an accident until the Inspector has—

(*a*) served a notice under this Regulation upon the commander of the aircraft involved in that accident and on any other person, including the Board and the appropriate authority, whose reputation is, in the Inspector's opinion, likely to be adversely affected by the report and, where the aircraft involved in the accident is a civil aircraft, on the operator of that aircraft, and

(*b*) considered any representations which may be made to him in accordance with paragraph (3) of this Regulation by or on behalf of the persons served with such notice.

(2) The notice referred to in paragraph (1) of this Regulation shall include particulars of any of those proposed findings and conclusions as to the circumstances and causes of the accident which may affect the person on whom the notice is served.

(3) Any representations made pursuant to paragraph (1) of this Regulation shall be in writing and shall be served on the Inspector within 28 days of service of the notice referred to in that paragraph.

(4) Any person who has been served with a notice pursuant to paragraph (1) of this Regulation shall be served with a copy of the report made to the Board and the appropriate authority.

Review Board

13.—(1) Any person, other than the Board and the appropriate authority, who has been served with a notice pursuant to Regulation 12(1) of these Regulations may at any time before the expiration of the period of 21 days

from the day on which he has been served with a copy of the report to the Board and the appropriate authority, serve on the Board written notice (hereinafter called "the notice of review") that he wishes those findings and conclusions in the report from which it appears that any degree of blame for the accident may be attributed to him, or to any deceased person whose executor, administrator or other personal representative he is, to be reviewed by a Review Board.

(2) The Review Board shall consist of a person to be appointed for the purpose by the Lord Chancellor, sitting with such technical Assessors, if any, as may be so appointed.

(3) The notice of review shall state concisely the grounds on which the findings and conclusions in the report are challenged. A copy of the notice of review shall, at the same time as it is served on the Board, be served on the Treasury Solicitor and the person requesting the review shall inform the Treasury Solicitor whether or not he proposes to be legally represented at the hearing of the review and of the name and address of the solicitor, if any, acting for him, or of any other person who will be representing him at the review.

(4) A copy of the notice of review shall also be served by the person requesting the review on each of the persons on whom the Inspector has served a notice under Regulation 12 of these Regulations; and for this purpose the person requesting the review may require the Inspector to furnish him with the names and addresses of those persons.

(5) In a case where the Board or the appropriate authority, having made representations pursuant to Regulation 12(1) of these Regulations, wish those findings and conclusions in the report from which it appears that any degree of blame for the accident may be attributed to the Board or the appropriate authority, as the case may be, to be reviewed by a Review Board appointed under this Regulation, the Board or the appropriate authority shall, before the expiration of the period of 14 days from the day of receipt of the Inspector's report, serve a notice of review on the Treasury Solicitor. The Board or the appropriate authority, as the case may be, shall serve a copy of the notice on each of the persons on whom the Inspector has served a notice under Regulation 12 of these Regulations.

14.—(1) Where notice of review has been served under Regulation 13 of these Regulations, the Board shall forthwith entrust the review to the appointed Review Board.

(2) The Board shall serve on the person requesting the review and all persons on whom the Inspector has served a notice under Regulation 12 of these Regulations, not less than 21 days' notice of the date, time and place of the hearing of the review (hereinafter called "the notice of hearing").

(3) The hearing shall be in public unless the Review Board determines, in relation to the whole or part of the review, that it is to be held in private in the interest of justice or in the public interest:

Provided that a decision by the Review Board that the hearing, or part of it, shall be held in private shall not preclude a member of the Council on Tribunals, or in the case of a Review Board sitting in Scotland, any member of the Scottish Committee of that Council, from being present at the hearing.

(4) The Review Board shall be assisted by the Treasury Solicitor, or by Counsel instructed by him, who shall present any evidence required by the Review Board and may examine any witnesses giving evidence at the review.

(5) The person requesting the review shall be heard by the Review Board and shall have the right to produce witnesses and examine any other witnesses giving evidence at the review.

(6) Before the date fixed for the hearing of the review the Review Board shall hold a preliminary meeting at which any directions may be given or any preliminary or interlocutory order as to the procedure may be made. Notice of the date, time and place of the preliminary meeting shall be given by the Treasury Solicitor to all persons on whom the notice of hearing has been served and any person intending to make any application to the Review Board at the meeting shall give notice thereof to the Treasury Solicitor.

(7) Any person, including the Board and the appropriate authority, who in the opinion of the Review Board may be affected by the review may be granted leave to appear and to produce witnesses and examine any other witnesses giving evidence at the review. Any application for such leave may be made to the Review Board at the preliminary meeting.

(8) In any proceedings of the Review Board the person requesting the review and any other person appearing pursuant to leave granted under paragraph (7) of this Regulation may appear in person or be represented by any other person whom he may have authorised to represent him.

(9) In addition to all the powers of an Inspector under these Regulations the Review Board may administer the oath to any witness, or require any witness to make and sign a declaration of the truth of the statements made by him in his examination.

(10) Every person summoned by the Review Board as a witness in accordance with this Regulation shall be allowed such expenses as the Board, with the approval of the Treasury, may determine.

(11)—(*a*) The Review Board may, if it thinks fit, order any person who appears or is represented as mentioned in paragraph (8) above to pay in respect of the costs of the Review Board such sum as may be specified in the order, or the taxed amount of those costs or such part thereof as may be so specified, and, without prejudice to the generality of the foregoing, the Review Board shall, in determining whether to make an order as to costs against any person, have regard to whether or not that person took advantage of such opportunities as were open to him to make representations under Regulation 12 of these Regulations.

(*b*) Any costs required by an order under the foregoing sub-paragraph to be taxed may be taxed on the common fund basis by the Supreme Court Taxing Office.

(*c*) Any sum payable by virtue of an order under sub-paragraph (*a*) of this paragraph shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if payable under an order of that court.

(12) Upon completion of the review the Review Board shall make a report to the Board and the appropriate authority jointly containing a summary of the proceedings at the hearing and either confirming or rejecting in whole or in part those findings and conclusions of the Inspector which were the subject of the review, together with its reasons therefor, and the Board shall serve a copy of the report on all persons who appeared or were represented before the Review Board.

Publication of Reports

15. The Board and the appropriate authority shall, unless in their opinion there are good reasons to the contrary, cause the Inspector's report and, where a Review Board has been held, the report of the Review Board, to be made public wholly or in part in such manner as they think fit:

Provided that—

(*a*) in any case where notice has been given under Regulation 12(1) of these Regulations, the Inspector's report shall not be published before the expiry of the time for service of a notice of review under Regulation 13(1) of these Regulations;

(*b*) in any case where a Review Board is held, the Inspector's report shall not be published until the completion of the review.

Reopening of Investigation or Review

16.—(1) In the case of any Inspector's investigation which has not been the subject of a review, the Chief Inspector may cause the investigation to be reopened, and in the case of a review the Board and the appropriate authority may direct the review to be reheard, in both cases either generally or as to any part thereof, and the Chief Inspector or the Board and the appropriate authority, as the case may be, shall do so—

(*a*) if new and important evidence has been discovered, or

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

(2) If the Board and the appropriate authority direct any review to be reheard, the Lord Chancellor may direct that the review shall be reheard either by the Review Board by whom it was heard in the first instance or by some other Review Board appointed by him to hold the rehearing.

(3) Any investigation reopened or review reheard shall be subject to and conducted in accordance with the provisions of these Regulations relating to an Inspector's investigation or review thereof as the case may be.

Public Inquiries

17.—(1) Where it appears to the Board and the appropriate authority that it is expedient in the public interest to hold a Public Inquiry into the circumstances and causes of or into any particular matter relating to an accident to which these Regulations apply, they may direct that a Public Inquiry be held by a Commissioner appointed by the Lord Chancellor. In any such case any Inspector's investigation relating to the accident or to the particular matter, as the case may be, shall be discontinued except for the purpose of rendering assistance as required by paragraph (3) of this Regulation.

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

(3) Where the Board and the appropriate authority have directed a Public Inquiry to be held, they 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 shall render such assistance to the Court and to the Attorney-General as is in his power.

(4) 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, hirer and commander of any aircraft involved in the accident, as well as upon any person who in his opinion ought to be served with such notice. Where any aircraft involved in the accident is a civil aircraft, he may also cause a notice of inquiry to be served on the operator of that aircraft. 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 he may by subsequent notice amend, add to, or omit any of the questions specified in the notice of inquiry.

(5) The Attorney-General, the owner, the operator (in the case of a civil aircraft), the hirer, the commander and any other person upon whom a notice of inquiry has been served, shall be deemed to be parties to the proceedings.

(6) Any other person, including the Board and the appropriate authority, may, by leave of the Court appear, and any person who so appears shall thereby become a party to the proceedings. Any application for such leave may be made to the Court at a preliminary meeting.

(7) At any time before the date appointed for holding the inquiry, the Court may hold a preliminary meeting at which any directions may be given or any preliminary or interlocutory order as to the procedure may be made. Any persons making any application to the Court at a preliminary meeting shall give notice thereof to the Treasury Solicitor.

(8)—(i) The Court shall have, for the purposes of the inquiry, all the powers of a Magistrates' Court, 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 witnesses, or require any witness to make and sign a declaration of the truth of the statement 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 (4) 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 to 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 (4) 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 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 Board and the appropriate authority jointly stating fully the circumstances of the case and the opinion of the Court touching the causes of the accident or on the particular matter referred to the Court 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.

(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 Board and the appropriate authority with the report. The Board and the appropriate authority shall unless in their opinion 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 they think 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 Taxing

Office 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.

Rehearing of Public Inquiries

18.—(1) The Board and the appropriate authority 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 has been discovered, or

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

(2) If the Board and the appropriate authority direct any inquiry to be reheard, the Lord Chancellor may direct 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

19.—(1) When an accident has occurred in or over the United Kingdom to an aircraft registered in any country or territory other than the United Kingdom, the Board may authorise an investigator appointed by the duly competent authority of that other country or territory to carry out an investigation in the United Kingdom and in that event the Board shall so far as they are able facilitate inquiries by the investigator so appointed.

(2) In any Inspector's investigation or any Public Inquiry an accredited representative of the country or territory in which the aircraft is registered, or of any country or territory in which the aircraft was manufactured or 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, that is to say he shall be permitted to visit the scene of the accident, examine the wreckage, question witnesses, receive copies of all pertinent documents (saving all just exceptions), have access to all relevant evidence and make submissions; and he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the country or territory by which he is appointed.

(3) The Inspector, in the case of the period of 28 days prescribed in Regulation 12(3) of these Regulations, and the Board, in the case of the period of 21 days prescribed in Regulation 13(1) thereof, shall have power to extend the said period: this power shall be exercisable notwithstanding that the period so prescribed has expired.

20.—(1) A person shall not obstruct or impede the Court or the Review Board or an Inspector or an Assessor or any person acting under the authority of the Board or the appropriate authority 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 a Review Board or an Inspector holding an Inspector's investigation under these Regulations.

Provisions as to Scotland

21.—(1) In the case of any accident occurring in or over Scotland any review of an Inspector's investigation and any Public Inquiry, or rehearing of a review or Public Inquiry shall be held in Scotland unless the Board and the appropriate authority after consulting with the Lord Advocate otherwise determine.

(2) In the application of the Regulations to Scotland and to any review or Public Inquiry held there—

(*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 the Treasury Solicitor there shall be substituted a reference to the Crown Agent ;

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

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

(*f*) for any reference to a Magistrates' Court there shall be substituted a reference to a Court of Summary Jurisdiction ;

(*g*) 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) ;

(*h*) for any reference to costs there shall be substituted a reference to expenses ;

(*i*) for sub-paragraphs (*b*) and (*c*) of Regulation 14(11) there shall be substituted the following paragraphs :

"(*b*) Any expenses required by an order under the foregoing sub-paragraph to be taxed shall be taxed by the Auditor of the Court of Session as if between solicitor and client on the basis that a reasonable amount in respect of all expenses reasonably incurred shall be allowable ; and the Auditor shall endorse on the order a docquet stating the amount of the expenses as so taxed.

(*c*) Any order under sub-paragraph (*a*) above, together with any docquet endorsed thereon under the last foregoing sub-paragraph, may be recorded for execution in the Books of Council and Session, and shall be enforceable accordingly" ;

(*j*) In Regulation 17(3) the words "by the Treasury Solicitor" shall be omitted.

Provisions as to Northern Ireland

22.—(1) In the case of any accident occurring in or over Northern Ireland any review of an Inspector's investigation and any Public Inquiry or rehearing of a review or Public Inquiry shall be held in Northern Ireland unless the Board and the appropriate authority after consulting with the Minister of Home Affairs of Northern Ireland otherwise determine.

(2) In the application of these Regulations to Northern Ireland and to any review or Public Inquiry held there—

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

(a) 1895 c. 36.

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

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

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

(*e*) for any reference 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*) for any reference to the Supreme Court Taxing Office, there shall be substituted a reference to the Taxing Office of the Supreme Court of Judicature of Northern Ireland ;

(*g*) for any reference to a Magistrates' Court there shall be substituted a reference to a Court of Summary Jurisdiction ;

(*h*) for any reference 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.

Revocation

23. The Air Navigation (Investigation of Combined Military and Civil Air Accidents) Regulations 1959(**a**), the Air Navigation (Investigation of Combined Military and Civil Air Accidents) (Amendment) Regulations 1960(**b**), and the Air Navigation (Investigation of Combined Military and Civil Air Accidents) (Second Amendment) Regulations 1966(**c**) are hereby revoked:

Provided that, without prejudice to Regulation 2(1) of these Regulations, the revocation shall not affect any investigation or Inquiry commenced under those Regulations and any such investigation or Inquiry may be continued as if these Regulations had not been made.

C. W. Wright,
A Deputy Under Secretary of the Ministry of Defence.

6th October 1969.

Robert Burns,
A Second Secretary of the Board of Trade.

6th October 1969.

(**a**) S.I. 1959/1388 (1959 I, p. 671).
(**b**) S.I. 1960/1526 (1960 I, p. 708).
(**c**) S.I. 1966/785 (1966 II, p. 1804).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, made under section 10 of the Civil Aviation Act 1949, as amended, provide for the holding of investigations by Inspectors of Accidents appointed by the Board of Trade and of Public Inquiries into the circumstances and causes of accidents occurring to military aircraft (including accidents to foreign military aircraft occurring in the United Kingdom) in circumstances in which there is a civil aviation element (e.g. where a military aircraft collides with a civil aircraft or crashes on a civil aerodrome). They also provide for the holding of investigations and Public Inquiries into the circumstances and causes of accidents occurring to civil aircraft in circumstances in which there is a military element. The Regulations provide that in the case of such accidents the Board of Trade acting jointly with the Secretary of State for Defence or the Minister of Technology, or with both of them, may direct that the accident shall be treated as one to which these Regulations apply.

The procedures governing investigations and Public Inquiries under these Regulations follow closely those laid down by the Civil Aviation (Investigations of Accidents) Regulations 1969, which relate to civil aviation only.

These Regulations revoke and replace with modifications the Civil Aviation (Investigation of Combined Military and Civil Air Accidents) Regulations 1959, as amended.

The principal modifications are as follows :—

(*a*) A new Regulation now provides that the main purpose of accident investigation shall be the determination of the circumstances and causes of the accident with a view to avoiding accidents in the future (Regulation 3).

(*b*) The Board of Trade may now appoint persons to assist an Inspector of Accidents in the investigation of a particular accident and confer on such persons such of the powers of an Inspector as may be specified in their appointment (Regulation 8(2)).

(*c*) A new procedure is introduced in relation to Inspectors' investigations requiring the Inspector to give notice of his findings and conclusions to persons affected by them and to consider any representations by those persons. Provision is also made for those persons to challenge the findings and conclusions of the Inspector prior to publication of his report before a Review Board appointed for the purpose by the Lord Chancellor and in accordance with procedures set out in the Regulations (Regulations 12, 13 and 14).

(*d*) In relation to Public Inquiries a new provision is made for the Court to hold a preliminary meeting to deal with preliminary or interlocutory matters (Regulation 17(7)).

(*e*) Provision is made for the holding of Review Boards and Public Inquiries in Scotland or Northern Ireland in respect of accidents occurring there, unless the Board of Trade and the appropriate authority determine otherwise after consultation with the Lord Advocate or the Minister of Home Affairs of Northern Ireland (Regulations 21 and 22).