STATUTORY INSTRUMENTS

1983 No. 551

CIVIL AVIATION

The Civil Aviation (Investigation of Accidents) Regulations 1983

Made - - - - 11th April 1983

Coming into Operation 16th May 1983

ARRANGEMENT OF REGULATIONS

Regulation No.
1-3. Citation, Commencement, Interpretation and Application
4. Purpose of Accident Investigation

PART I–ACCIDENT INVESTIGATION

5-6. Duty to furnish information relating to accidents
7. Removal of damaged aircraft
8. Inspectors of Accidents
9. Powers of Inspectors
10. Inspector's Investigation and Report
11. Notice of Inspector's Report and Representations thereon

PART II–REVIEW BOARD

12. Notice of Review
13. Appointment of Review Board
14. Proceedings of Review Board
15. Publication of Reports
16. Reopening of Investigation or Review

PART III–PUBLIC INQUIRIES

17. Holding of Public Inquiries
18. Proceedings of Public Inquiries
19. Rehearing of Public Inquiries

PART IV–GENERAL

20. Accidents to aircraft registered outside the United Kingdom
21. Extension of time
22. Obstruction of Investigation
23. Provisions as to Scotland
24. Provisions as to Northern Ireland
25. Revocation

The Secretary of State, in exercise of powers conferred on him by sections 75 and 102 of the Civil Aviation Act 1982(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

(a) 1982 c. 16.

Citation, Commencement, Interpretation and Application

1. These Regulations may be cited as the Civil Aviation (Investigation of Accidents) Regulations 1983 and shall come into operation on 16th May 1983.

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

"accident" includes an incident and a reportable accident;

"aerodrome authority" means, in relation to any aerodrome, the person (whether the British Airports Authority, the Civil Aviation Authority, a local authority or any other person) by whom the aerodrome is managed;

"commander" in relation to an 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;

"Chief Inspector" means the Chief Inspector of Accidents appointed under Regulation 8(1) below and includes any deputy chief inspector;

"crew" includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

"incident" means any fortuitous or unexpected event, not being a reportable accident, by which the safety of an aircraft or any person is threatened;

"Inspector" means a person appointed as an Inspector of Accidents under Regulation 8(1) below;

"operator" in relation to an aircraft means the person for the time being having the management of that aircraft;

"owner" means, where an aircraft is registered, the registered owner;

"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;

"reportable accident" means an occurrence associated with the operation of an aircraft which takes place between the time when any person boards the aircraft with the intention of flight and such time as all persons have disembarked therefrom, in which—

(*a*) any person suffers death or serious injury while in or upon the aircraft or by direct contact with any part of the aircraft (including any part which has become detached from the aircraft) or by direct exposure to jet blast, except when the death or serious injury is from natural causes, is self-inflicted or is inflicted by other persons or when the death or serious injury is suffered by a stowaway hiding outside the areas normally available in flight to the passengers and members of the crew of the aircraft; or

(*b*) the aircraft incurs damage or structural failure, other than—

(i) engine failure or damage, when the damage is limited to the engine, its cowling or accessories,

(ii) damage limited to propellers, wing tips, antennae, tyres, brakes, fairings, small dents or punctured holes in the aircraft skin,

which adversely affects its structural strength, performance or flight characteristics and which would normally require major repair or replacement of the affected component; or

(*c*) the aircraft is missing or is completely inaccessible;

"serious injury" means an injury which is sustained by a person in a reportable accident and which—

(*a*) requires his stay in hospital for more than 48 hours commencing within seven days from the date on which the injury was received; or

(*b*) results in a fracture of any bone (except simple fractures of fingers, toes or nose); or

(*c*) involves lacerations which cause nerve, muscle or tendon damage or severe haemorrhage; or

(*d*) involves injury to any internal organ; or

(*e*) involves second or third degree burns or any burns affecting more than five per cent. of the body surface;

and "seriously injured" shall be construed accordingly.

(2) For the purposes of section 75 of the Civil Aviation Act 1982, the definition of "accident" shall be the same as in these Regulations.

(3) Any notice or other document required or authorised by any provision of these Regulations to be served on or given to any person may be served or given by delivering it to him or by sending it to him by post at his usual or last-known residence or place of business, whether in the United Kingdom or elsewhere.

3. These Regulations relate only to civil aviation and shall apply to accidents arising out of or in the course of air navigation which occur to civil aircraft in or over the United Kingdom, or elsewhere to civil aircraft registered in the United Kingdom so, however, that these Regulations shall not apply to any accident to which any Regulations not relating only to civil aviation made or having effect as if made (**a**) under section 75 of the Civil Aviation Act 1982, apply.

Purpose of Accident Investigation

4. The fundamental purpose of investigating accidents under these Regulations shall be to determine the circumstances and causes of the accident with a view to the preservation of life and the avoidance of accidents in the future; it is not the purpose to apportion blame or liability.

PART I—ACCIDENT INVESTIGATION

Duty to furnish information relating to accidents

5.—(1) Where a reportable accident occurs the commander of the aircraft involved at the time of the accident, or if he be killed or incapacitated then the operator of the aircraft, and, in the case of an accident occurring on or adjacent to an aerodrome, the aerodrome authority shall forthwith give notice thereof to the Chief Inspector by the quickest means of communication available and in the case of a reportable 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 Chief Inspector referred to in paragraph (1) above shall state as far as possible—

(*a*) the identifying abbreviation ACCID;

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

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

(a) For example the Air Navigation (Investigation of Combined Military and Civil Air Accidents) Regulations 1969 (S.I. 1969/1437).

(*d*) the name of the commander of the aircraft;

(*e*) the date and Greenwich Mean Time of the accident;

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

(*g*) the position of the aircraft by reference to some easily defined geographical point and latitude and longitude;

(*h*)(i) the number of crew on board the aircraft at the time of the accident and the number of them killed or seriously injured as a result of the accident;

(ii) the number of passengers on board the aircraft at the time of the accident and the number of them killed or seriously injured as a result of the accident;

(iii) the number of other persons killed or seriously injured as a result of the accident;

(*i*) the nature of the accident and the extent of the damage to the aircraft as far as is known.

(3) Where an accident to which these Regulations apply occurs, whether in or over the United Kingdom or elsewhere, the owner, operator, commander or hirer of the aircraft shall, if so required by notice in writing given to him by the Chief Inspector, send to the Chief Inspector, within such time as may be specified in the notice, such information as is in his possession or control with respect to the accident in such form as the Chief Inspector may require.

6. The Chief Inspector may at any time publish, or cause to be published, information relating to an accident whether or not such an accident is the subject of an investigation by an Inspector, of a Review Board or of a Public Inquiry.

Removal of damaged aircraft

7.—(1) Subject to Regulation 9 below, where a reportable accident occurs in or over the United Kingdom, no person other than an authorised person shall have access to the aircraft involved in the accident and neither the aircraft nor its contents shall except under the authority of the Secretary of State be removed or otherwise interfered with:

Provided that, subject to the provisions of section 21(4) and (5) of the Customs and Excise Management Act 1979(**a**)—

(i) 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, valuables and dangerous goods 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 an Inspector or, with the agreement of an Inspector or of a constable, for the purpose of removing any other property from the aircraft;

(ii) 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 Secretary of State 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**) 1979 c. 2.

Inspectors of Accidents

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

(2) The Chief Inspector shall determine whether or not an investigation shall be carried out into any accident to which these Regulations apply and he may himself carry out, or may cause an Inspector to carry out, an investigation of any such accident.

(3) Without prejudice to the power of an Inspector to seek such advice or assistance as he may deem necessary in making an investigation, the Secretary of State 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.

Powers of Inspectors

9. For the purpose of the investigation of any accident to which these Regulations apply, or any inquiries undertaken with a view to determining whether any such investigation should be held, 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 below or, as the case may be, it is determined that an investigation shall not be carried out;

(*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 any such accident and the place where the accident occurred and to require any such aircraft or any part or equipment thereof to be preserved unaltered pending investigation;

(*d*) to examine, remove, test, take measures for the preservation of, or otherwise deal with–

(i) the aircraft involved in the accident; or

(ii) where it appears to the Inspector requisite for the purposes of any such investigation or inquiries, any other aircraft,

or any part of such aircraft or anything contained therein;

(*e*) on production if required of his credentials, to enter and inspect any place, building or aircraft the entry or inspection whereof appears to the Inspector to be requisite for the purposes of any such investigation or inquiries or any inquiry held pursuant to Regulation 17 below, except that an Inspector shall not have power to enter any premises under this sub-paragraph for the purpose of inquiries with a view to determining whether an investigation should be held if at the time of the proposed entry the premises are being used as a dwelling;

(*f*) to take such measures for the preservation of evidence as he considers appropriate.

Inspector's Investigation and Report

10.—(1) Public notice that an investigation by an Inspector (hereinafter called an "Inspector's investigation") is taking place shall be given in such manner as the Chief Inspector may think fit and 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 Secretary of State, with the approval of the Treasury, may determine.

(5) The Chief Inspector may determine that any Inspector's investigation being carried out into any accident shall be discontinued and in that event no report shall be made thereon to the Secretary of State under paragraph (6) below, but public notice shall be given, in such manner as the Chief Inspector may think fit, that the investigation has been discontinued.

(6) Subject to the provisions of Regulation 11 below, upon completion of an Inspector's investigation the Chief Inspector shall submit to the Secretary of State the report of the Inspector who carried out the investigation.

(7) The report to the Secretary of State shall state the facts relating to the accident followed by an analysis of the facts and conclusions as to the cause or causes of the accident, together with any recommendations which the Inspector thinks fit to make with a view to the preservation of life and the avoidance of accidents in the future.

Notice of Inspector's Report and Representations thereon

11.—(1) No report shall be submitted to the Secretary of State under Regulation 10(6) above in respect of an accident until the Inspector has—

(*a*) where it appears to him to be practicable so to do, served a notice under this Regulation upon the operator and commander of the aircraft involved in the accident and on any person whose reputation is, in the Inspector's opinion, likely to be adversely affected by the report or, if any of the foregoing be a deceased individual, upon such person or persons as appear to the Inspector, at the time he proposes to serve notice pursuant to this paragraph, to represent best the interest of the deceased in the matter, and

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

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

(3) Any representations made pursuant to paragraph (1) above shall be in writing and shall be served on the Inspector within 28 days of service of the notice referred to in that paragraph or within such further period as may be allowed under Regulation 21 below.

(4) A copy of the report submitted to the Secretary of State under Reglation 10(6) above shall be served by the Chief Inspector on any person who has been served with a notice pursuant to paragraph (1) above.

PART II—REVIEW BOARD

Notice of Review

12.—(1) Any person who has been served with a notice under Regulation 11(1) above 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 under Regulation 11(4) above, (or within such further period as may be allowed under Regulation 21 below) serve on the Secretary of State written notice (hereinafter called the "notice of review") that he wishes those findings and conclusions in the report from which it appears that his reputation or, as the case may be, the reputation of the person on whose behalf representations have been made under Regulation 11(3) above, is likely to be adversely affected, to be reviewed by a Review Board.

(2) The notice of review shall specify the findings and conclusions that it is considered should be reviewed by the Review Board and shall state concisely the grounds on which the findings and conclusions in the report are challenged and there shall be appended to the notice a copy of any representations made under Regulation 11(3) above.

(3) A copy of the notice of review (together with a copy of any representations made under Regulation 11(3) above) shall, at the same time as the notice of review is served on the Secretary of State, be served on the Treasury Solicitor, and the person requesting the review shall then or as soon as possible thereafter inform the Treasury Solicitor whether or not he proposes to be 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 all other persons on whom the Inspector has served a notice under Regulation 11(1) above, and for this purpose the person requesting the review may require the Inspector to furnish him with the names and addresses of those persons.

Appointment of Review Board

13.—(1) Where a notice of review in accordance with Regulation 12 above has been served, the review shall be entrusted to a Review Board consisting of a chairman to be appointed for the purpose by the Lord Chancellor and such technical assessors as may be so appointed.

(2) Before the hearing of the review the Review Board shall hold a preliminary meeting at which any directions may be given or any preliminary interlocutory order as to the procedure may be made. Not less than 21 days notice of the date, time and place of the preliminary meeting shall be given by the Treasury Solicitor to the person requesting the review and all persons on whom a copy of the notice of review 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.

(3) The Treasury Solicitor shall serve on the person requesting the review and all other persons on whom the Inspector has served a notice under Regulation 11(1) above, not less than 21 days' notice of the date, time and place of the hearing of the review.

(4) 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 interests 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 the Inspector who made the report or 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.

(5) 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; the Chief Inspector shall render such assistance to the Review Board as is in his power.

Proceedings of Review Board

14.—(1) The person requesting the review shall be heard by the Review Board and shall have the right to give evidence, produce witnesses and examine any other witnesses giving evidence at the review. The Inspector who made the report shall be entitled to be heard by the Review Board.

(2) Any person who in the opinion of the Review Board may be directly affected by the review may be granted leave to appear and to give evidence, 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.

(3) In any proceedings of the Review Board the person requesting the review and any other person appearing pursuant to leave granted under paragraph (2) above may appear in person or be represented by any other person whom he may have authorised to represent him.

(4) The Review Board shall have all the powers of an Inspector under these Regulations and, in addition, may administer an oath to or require a solemn affirmation from any witness.

(5) (*a*) Where new and important evidence is given at the review, which was not given at the Inspector's investigation, the Review Board may, on an application by the Chief Inspector, discontinue the review, and the Chief Inspector shall thereupon cause the investigation to be re-opened.

(*b*) Where at any time during the review the Review Board are satisfied that any of the findings and conclusions in the Inspector's report do not adversely affect the reputation of the person in respect of whom the notice of review was served, the Review Board may discontinue the review in respect of those findings and conclusions.

(*c*) Where a review is totally discontinued under this paragraph no report shall be made to the Secretary of State under paragraph (8) below.

(6) Every person summoned by the Review Board as a witness shall be allowed such expenses as the Secretary of State, with the approval of the Treasury, may determine.

(7) (*a*) The Review Board may, if it thinks fit, order any person who appears or is represented as mentioned in paragraph (3) 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 upon such basis 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 11 above or, where that person gave new and important evidence at the review and the review was discontinued, whether or not that person could reasonably have given that evidence at the Inspector's investigation.

(*b*) Any costs required by an order under sub-paragraph (*a*) above to be taxed shall be taxed by the Supreme Court Taxing Office on the basis specified in the order.

(*c*) Any sum payable by virtue of an order under sub-paragraph (*a*) 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.

(8) Upon completion of the review the Review Board shall make a report to the Secretary of State 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 Secretary of State shall serve a copy of the report on all persons who appeared or were represented before the Review Board.

Publication of Reports

15. The Secretary of State shall, unless in his 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 he thinks fit:

Provided that—

(i) in any case where notice has been served under Regulation 11(1) above, the Inspector's report shall not be published before the expiry of the time for service of a notice of review under Regulation 12(1) above; and

(ii) save where a review is totally discontinued under Regulation 14(5) above, in any case where a Review Board is held, the Inspector's report shall not be published until the Review Board has made a report to the Secretary of State under Regulation 14(8) above.

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 Secretary of State may direct the review to be reheard, in both cases either generally or as to any part thereof, and the Chief Inspector or the Secretary of State, as the case may be, shall do so—

(*a*) if after the completion of the investigation or the review new and important evidence 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 Secretary of State directs 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.

PART III—PUBLIC INQUIRIES

Holding of Public Inquiries

17.—(1) Where it appears to the Secretary of State that it is expedient in the public interest to hold a Public Inquiry into the circumstances and causes of an accident to which these Regulations apply or into any particular matter relating to the avoidance of such accidents in the future, he 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) below.

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

(3) Where the Secretary of State 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 shall render such assistance to the Court and to the Attorney-General as is in his power.

(4) When the Secretary of State has directed a Public Inquiry to be held, the Attorney-General shall cause a notice of the date, time and place and the nature of the Public Inquiry to be served upon the owner, operator, hirer and commander of any aircraft involved in the accident and on any other person who in his opinion ought to be served with such notice.

(5) The Attorney-General, the owner, the operator, the hirer, the commander and any other person upon whom a notice of inquiry has been served under paragraph (4) above, shall be deemed to be parties to the proceedings.

(6) Any other person may by leave of the Court appear, and any person who obtains leave to appear shall thereupon 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. Notice of the date, time and place of the preliminary meeting shall be given by the Treasury Solicitor to the parties to the proceedings and to any other person who has notified the Treasury Solicitor that he intends to apply to the Court for leave to appear. Any person intending to make an application to the Court at the meeting shall give notice thereof to the Treasury Solicitor.

(8) The Court shall have, for the purposes of the inquiry, all the powers of a Magistrate's Court, and without prejudice to those powers, the Court may—

(*a*) enter and inspect, or authorise any person to enter and inspect, any place, building or aircraft the entry or inspection whereof appears to the Court to be 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 question or furnish any information or produce any books, papers, documents and articles which the Court may consider relevant;

(*c*) administer an oath to or require a solemn affirmation from any such witness.

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, 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 who have obtained leave to appear, or any of them, are present or not.

(11) The Court shall hold the inquiry in public Court save to the extent to which the Court directs, in relation to any part of the evidence or any argument relating thereto, that the inquiry be held in private in the interest of justice or in the public interest.

(12) The Inspector who carried out or, before its discontinuance under paragraph (1) above, was carrying out an Inspector's investigation into an accident to which the inquiry relates and a member of the Council on Tribunals, or in the case of an inquiry held in Scotland, a member of the Scottish Committee of that Council shall be entitled to be present at any proceedings of the Court held in private.

Proceedings of Public Inquiries

18.—(1) The proceedings on the inquiry shall commence with an opening speech by or on behalf of the Attorney-General, followed at the discretion of the Court with brief speeches by or on behalf of the other parties. The proceedings shall continue 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.

(2) When the examination of the witnesses produced on behalf of the Attorney-General has been concluded, the Court shall proceed to hear the other parties to the proceedings. 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.

(3) When the whole of the evidence 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.

(4) 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.

(5) Upon completion of the inquiry, the Court shall make a report to the Secretary of State stating the facts relating to the accident and the opinion of the Court touching the cause or causes of the accident or on the particular matter referred to the Court and adding any recommendations which the Court thinks fit to make with a view to the preservation of life and the avoidance of accidents in the future.

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

(7) Every person attending as a witness before the Court shall be allowed such expenses as would be allowed to a witness attending before the High Court, 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

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

(*a*) if after the completion of the inquiry new and important evidence 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 Secretary of State directs any inquiry to be reheard, the Lord Chancellor may direct that the inquiry shall be reheard either by the Court by whom it was heard in the first instance or by some other person appointed by him to hold the rehearing.

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

PART IV—GENERAL

Accidents to aircraft registered outside the United Kingdom

20.—(1) Where 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 Secretary of State 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 Secretary of State shall so far as he is 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.

Extension of time

21. The Inspector, in the case of the period of 28 days prescribed in Regulation 11(3) above, and the Secretary of State, in the case of the period of 21 days prescribed in Regulation 12(1) above, shall have power to extend the said periods, and this power shall be exercisable notwithstanding that the period so prescribed has expired.

Obstruction of Investigation

22.—(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 Secretary of State in the exercise of any powers or duties under these Regulations.

(2) A person shall not 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 or requisition of the Court holding a Public Inquiry or of a Review Board or of an Inspector holding an Inspector's investigation or undertaking any inquiries with a view to determining whether any investigation should be held under these Regulations.

Provisions as to Scotland

23.—(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 a Public Inquiry, shall be held in Scotland unless the Secretary of State after consulting with the Lord Advocate otherwise determines.

(2) In the application of these 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 the High Court there shall be substituted a reference to a witness attending an inquiry under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976(a);

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

(*i*) in sub-pararaph (*a*) of Regulation 14(7) above, the words "upon such basis as may be so specified" shall be omitted and for sub-paragraphs (*b*) and (*c*) of that Regulation there shall be substituted the following sub-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) above the words "by the Treasury Solicitor" shall be omitted;

(*k*) in Regulation 18(1) above the words from "with an opening speech" to "shall continue" shall be omitted;

(*l*) in Regulation 18(7) above the words from "and in case of dispute" to "the proper amount of the expenses" shall be omitted.

Provisions as to Northern Ireland

24.—(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 a Public Inquiry, shall be held in Northern Ireland unless the Secretary of State after consulting with the Secretary of State for Northern Ireland otherwise determines.

(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;

(*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 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 the High Court, 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;

(a) 1976 c. 14.

(*h*) for any reference to local police authorities, there shall be substituted a reference to a Superintendent or Chief Inspector of the Royal Ulster Constabulary having authority in the district, or in a district contiguous to the district, in or over which an accident occurs.

Revocation

25. The Civil Aviation (Investigation of Accidents) Regulations 1969(**a**) are hereby revoked:

Provided that the revocation shall not affect any investigation, review or inquiry commenced under those Regulations and any such investigation, review or inquiry may be continued as if these Regulations had not been made.

Iain Sproat,
Parliamentary Under Secretary of State,
11th April 1983. Department of Trade.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations re-enact the Civil Aviation (Investigation of Accidents) Regulations 1969 with amendments which reflect the changes made in section 10 of the Civil Aviation 1949 (c. 67) by section 21 of the Civil Aviation Act 1980 (c. 60) and consolidated in section 75 of the Civil Aviation Act 1982 (under which the Regulations are made) and the changes in Annex 13 to the Chicago Convention which relates to the investigation of accidents to civil aircraft. Minor and drafting amendments are also made.

The principal changes are—

(*a*) The insertion of new definitions of "reportable accident" and "serious injury" to conform with the definitions in Annex 13 (sixth edition) to the Chicago Convention. The definition of "accident" includes "incident" (as defined) so as to apply the provisions relating to the investigation of accidents to incidents in the interests of air safety. (Regulation 2).

(*b*) The powers of Inspectors in connection with the investigation of accidents are extended to any inquiries undertaken by them with a view to determining whether any investigation into an accident should be held, except that this power does not extend, in the case of entry and inspection of any place, building or aircraft, to premises which at the time of the proposed entry are being used as a dwelling. Their powers to examine, test, remove, etc. any aircraft involved in an accident are extended to any other aircraft where it appears requisite for the purposes of their investigations or inquiries. (Regulation 9).

(**a**) S.I. 1969/833.

(*c*) The requirement imposed on an Inspector to serve a notice on the operator or commander of the aircraft involved in an accident before he makes his Report of the investigation to the Secretary of State is now subject to such service being practicable. Additionally, service of notice, where practicable, is required on a person or persons who appear to the Inspector to best represent the interest of any deceased person whose reputation is, in the Inspector's opinion, likely to be adversely affected by the report. (Regulation 11).

(*d*) An investigation may be reopened when new and important evidence is given at a review (by the Review Board) of the findings and conclusions in a report. The review by a Review Board may be discontinued when it is satisfied that any of the findings and conclusions in a report do not adversely affect the reputation of the person who applied for the review. (Regulations 14(5)).

(*e*) The Inspector who made the report is entitled to be present at a hearing of the Review Board held in private (Regulation 13(4)), and, unless the Court otherwise directs, at any proceedings of the Court under a Public Inquiry held in camera. (Regulation 17(12)).

(*f*) In relation to a Public Inquiry, changes have been made in the order of the presentation of the evidence to facilitate the proceedings of the Inquiry (Regulation 18(1)-(3)). The Attorney-General is no longer required to state the questions in reference to the accident or to frame questions for the opinion of the Court.

The maximum financial penalty for any contravention of the Regulations is increased from £50 to £1,000 as a result of an amendment to section 10(3) of the 1949 Act by section 21(7) of the 1980 Act–see now section 75(5) of the 1982 Act.

Copies of Annex 13 to the Chicago Convention are obtainable from the Civil Aviation Authority, Printing and Publication Services, Greville House, 37 Gratton Road, Cheltenham, Glos GL50 2BN.

SI 1983/551
ISBN 0-11-036551-8

