STATUTORY INSTRUMENTS

1989 No. 2062

CIVIL AVIATION

The Civil Aviation (Investigation of Air Accidents) Regulations 1989

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ARRANGEMENT OF REGULATIONS

Regulation No.

1–3 Citation, commencement, interpretation and application

4 Purpose of Air Accident Investigation

PART I

Accident Investigation

5–6 Duty to furnish information relating to accidents

7 Removal of damaged aircraft

8 Inspectors of Air Accidents

9 Powers of Inspectors

10 Form and conduct of investigations

11 Inspector's Report and submission of information to the CAA

12 Notice of Inspector's Report and Representations thereon

PART II

Review Board

13 Notice of Review

14 Appointment of Review Board and preliminary meeting

15 Proceedings of Review Board

16 Publication of Reports

17 Reopening of Investigations or Review

[DET 9398]

PART III

Public Inquiries

18 Holding of Public Inquiries

19 Proceedings of Public Inquiries

20 Rehearing of Public Inquiries

PART IV

General

21 Accidents to aircraft registered outside the United Kingdom

22 Extension of time

23 Obstruction of Investigation

24 Provisions as to Scotland

25 Provisions as to Northern Ireland

26 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:–

Citation, commencement, interpretation and application

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents) Regulations 1989 and shall come into force on 28th November 1989.

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 by whom the aerodrome is managed;

"the CAA" means the Civil Aviation Authority;

"commander" in relation to an aircraft means a 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 Air 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;

"field investigation" means an investigation which is not intended to be the subject of a report by an Inspector to the Secretary of State;

"formal investigation" means an investigation which is intended to be the subject of a report by an Inspector to the Secretary of State;

"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 Air Accidents under regulation 8 (1) below;

"investigation" means any investigation carried out by an Inspector into an accident;

"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

(a) 1982 c.16.

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; or

(f) involves verified exposure to infectious substances or injurious radiation;

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–

(a) by delivering it to that person;

(b) by leaving it at his usual or last-known residence or place of business, whether in the United Kingdom or elsewhere;

(c) by sending it to him by post at that address; or

(d) by sending it to him at that address by telex or other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as served when it is received.

3. These Regulations relate only to civil aviation and shall apply–

(a) to accidents arising out of or in the course of air navigation which occur to civil aircraft in or over the United Kingdom; or

(b) to such accidents which occur elsewhere to civil aircraft registered in the United Kingdom; or

(c) for the purposes of regulation 21 only, to such accidents which occur elsewhere to civil aircraft registered in a country or territory other than 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 25 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 be given 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 Coordinated Universal 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 by reference to some easily defined geographical point and latitude and longitude;

(g) (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;

(h) 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.

(a) For example the Air Navigation (Investigation of Air Accidents involving Civil and Military Aircraft or Installations) Regulations 1986 (S.I. 1986/1953).

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.

Inspectors of Air 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 Air Accidents, one of whom shall be appointed by the Secretary of State as Chief Inspector of Air 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 the form of the investigation. 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 18 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 of equipment thereof to be preserved unaltered pending investigation;

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

(a) 1979 c.2.

(i) the aircraft involved in the accident; or

(ii) where it appears to the Inspector requisite for the purposes of 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 18 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.

Form and conduct of investigations

10.—(1) An investigation into any accident to which these Regulations apply may be a formal investigation or a field investigation.

(2) Public notice that a formal 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 the time to be specified in the notice.

(3) All investigations shall be held in private.

(4) Where it appears to the Inspector in the course of any investigation 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.

(5) 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.

(6) The Chief Inspector may determine that any investigation being carried out into an accident shall be discontinued and in the event of a formal investigation being discontinued no report shall be made thereon to the Secretary of State under regulation 11(1) below, but public notice shall be given, in such manner as the Chief Inspector may think fit, that the investigation has been discontinued.

(7) Following the discontinuance of any investigation, the Chief Inspector shall submit to the Civil Aviation Authority such information as he considers desirable in the interest of the avoidance of accidents in the future.

Inspector's Report and submission of information to the CAA

11.—(1) Subject to the provisions of Regulation 12 below, upon completion of a formal investigation the Chief Inspector shall submit to the Secretary of State the report of the Inspector who carried out the investigation.

(2) Upon completion of a field investigation the Chief Inspector shall submit to the CAA such information as he considers desirable in the interest of the avoidance of accidents in the future.

(3) The report to the Secretary of State upon completion of a formal investigation shall state the facts relating to the accident followed by an analysis of the facts and conclusions as to the 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

12.—(1) No report shall be submitted to the Secretary of State under regulation 11(1) 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 22 below.

(4) A copy of the report submitted to the Secretary of State under regulation 11(1) above shall be served by the Chief Inspector on any person who has been served with a notice pursuant to paragraph (1) above.

(5) No person shall disclose or permit to be disclosed any information contained in a notice or report served on him pursuant to paragraphs (2) or (4) above to any other person without the prior consent in writing of the Chief Inspector.

PART II

REVIEW BOARD

Notice of Review

13.—(1) Any person who has been served with a notice under regulation 12(1) above may, at any time before the expiration of the period of 21 days from the date on which he has been served with a copy of the report under regulation 12(4) above, (or within such further period as may be allowed under regulation 22 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 12(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, shall state concisely the grounds on which the findings and conclusions in the report are challenged and the reasons why the reputation of the person requesting the review is likely to be adversely affected by such findings and conclusions and there shall be appended to the notice a copy of any representations made under regulation 12(3) above.

(3) A copy of the notice of review (together with a copy of any representations made under regulation 12(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 (together with a copy of any representations made under regulation 12(3) above) shall also be served by the person requesting the review on all other persons on whom the Inspector has served a notice under regulation 12(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 and preliminary meeting

14.—(1) Where a notice of review in accordance with regulation 13 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 preliminary meeting shall be in public unless the Review Board determines that it is to be held in private in the interests of justice or in the public interest.

(4) Where at any time during the preliminary meeting the Review Board is satisfied that any of the findings and conclusions in the Inspector's report do not adversely affect the reputation of the person requesting the review, the Review Board may decide not to proceed with the review in respect of those findings and conclusions.

(5) The Review Board shall not reach a decision under paragraph (4) above unless it has given the person requesting the review and all persons on whom a copy of the notice of review has been served an opportunity to make representations as to whether the review should be proceeded with.

(6) 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 12(1) above, not less than 21 days' notice of the date, time and place of the hearing of the review.

(7) 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 the Council, from being present at the hearing.

(8) 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

15.—(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 proceedings of the Review Board shall commence with the giving of evidence by the person requesting the review and the production and examination of witnesses on his behalf. When the examination of witnesses on behalf of such person has been concluded the Review Board shall proceed to hear the other persons appearing before it.

(5) The Review Board shall have all the powers of an Inspector under these Regula-

tion and, in addition, may administer an oath to or require a solemn affirmation from any witness.

(6)(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 is 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 (9) below.

(7) 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.

(8)(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 or of any other person who appears or is represented as mentioned in paragraph (3) above 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 12 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 the court.

(9) 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 us 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

16. 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 12(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 13(1) above; and

(ii) save where a review is totally discontinued under regulation 15(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 15(9) above.

Reopening of Investigation or Review

17.—(1) In the case of any formal 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, including a review which has been discontinued under regulation 15(6), the Secretary of State may direct the review to be reheard or, if a decision has been reached under regulation 14(4) not to proceed with the review, may direct the review to be proceeded with, in each case 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 completion or curtailment of the review evidence has been disclosed which is in his opinion both new and important, 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 or proceeded with the Lord Chancellor may direct that the review shall be reheard or proceeded with either by the Review Board by whom it was heard or to which it had been entrusted in the first instance or by some other Review Board appointed by him to hold the rehearing.

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

PART III

PUBLIC INQUIRIES

Holding of Public Inquiries

18.—(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 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 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

19.—(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

20.—(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 evidence has been disclosed which is in his opinion both new and important, 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

21.—(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 formal 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) Where an accident has occurred elsewhere than in the United Kingdom to an aircraft registered in any country or territory other than the United Kingdom, the Chief Inspector shall have power to take the measures described in regulation 9 above for the

purpose of obtaining any information relevant to the investigation of the accident by the duly competent authority of the country or territory conducting such investigation.

Extension of time

22. The Inspector, in the case of the period of 28 days prescribed in regulation 12(3) above, and the Secretary of State, in the case of the period of 21 days prescribed in regulation 13(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

23.—(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 investigation or undertaking any inquiries with a view to determining whether any investigation should be held under these Regulations.

Provisions as to Scotland

24.—(1) In the case of any accident occurring in or over Scotland any review of a formal investigation and any Public Inquiry, or rehearing of a review of 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-paragraph (a) of regulation 15(8) above, the words "upon such basis as may be so specified" there 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

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(a) 1976 c.14.

recorded for execution in the Books of Council and Session, and shall be enforceable accordingly.";

(j) in Regulation 18(3) above the words "by the Treasury Solicitor" shall be omitted;

(k) in Regulation 19(1) above the words from "with an opening speech" to "shall continue" shall be omitted;

(l) in Regulation 19(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

25.—(1) In the case of any accident occurring in or over Northern Ireland any review of a formal 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;

(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

26. The Civil Aviation (Investigation of Accidents) Regulations 1983**(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.

Patrick McLoughlin

Signed by authority of the Secretary of State
7th November 1989

Parliamentary Under Secretary of State,
Department of Transport

(a) S.I. 1983/551.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-enact the Civil Aviation (Investigation of Accidents) Regulations 1983 with amendments. Some minor and drafting amendments have been made. The principal changes are–

(a) The division of investigations by Inspectors into formal investigations which are the subject of a report to the Secretary of State and field investigations following which information on the accident is to be submitted to the CAA (regulations 2, 10 and 11).

(b) The insertion of a new definition of "serious injury" to conform with the definition in Annex 13 (seventh edition) to the Chicago Convention (regulation 2).

(c) The extension of the scope of the Regulations to accidents involving aircraft not registered in the United Kingdom occurring outside the United Kingdom to enable evidence to be obtained in respect of any such accident in order to assist the state conducting an investigation into the accident, in conformity with Annex 13 (seventh edition) to the Chicago Convention (regulations 3 and 21).

(d) The prohibition of disclosure of the contents of a notice or Inspector's report served under regulation 12 without the prior consent of the Chief Inspector (regulation 12)

(e) The introduction of a requirement that a person requesting a review board shall include in the notice of review the reasons why he claims that his reputation is likely to be adversely affected by the report (regulation 13).

(f) The procedure at the preliminary meeting of the Review Board is amended so that the meeting may be held in private and the Review Board may decide at the meeting not to proceed with the review (regulation 14).

(g) At the hearing of the review the person requesting the review shall present his case first. The Review Board's power to make an order as to costs against a person appearing at the review is extended to include the costs of any other person appearing at the review (regulation 15).

(h) Consequent on the introduction of a power in regulation 14 for the Review Board to decide not to proceed with the review at the preliminary hearing the Secretary of State is given power to direct that the review be proceeded with (regulation 17).

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.