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THE CIVIL AVIATION (AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATION) REGULATIONS, 2015

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PART I

PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Civil Aviation (Aircraft Accidents and Incidents Investigation) Regulations, 2012.

Interpretation

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

"accident" means an occurrence associated with the operation of an aircraft which takes place between the time when a person boards the aircraft with the intention of flight until such time when the person has disembarked, in which:

(a) a person is fatally or seriously injured as a result of-

(i) being in the aircraft;

(ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or

(iii) direct exposure to jet blast;

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which-

(i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and

(ii) would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tires, brakes, fairings, small dents or puncture holes in the aircraft skin; or

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

provided that, an aircraft shall be deemed to be missing when the official search has been terminated and the wreckage has not been located;

"accredited representative" means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State;

"adviser" means a person appointed by a State, on the basis of his qualifications, for the purpose of assisting its accredited representative in an investigation;

"aircraft" means any machine that can derive support in the atmosphere from the reactions of the air, other than reactions of the air against the earth's surface, and includes all flying machines, aeroplanes, gliders, seaplanes, rotorcrafts, airships, balloons, gyroplanes, helicopters, ornithopters and other similar machines but excludes state aircraft;

"Air Traffic Service" means air traffic services and includes flight information service, alerting service, air traffic advisory service, air traffic control service, area control service, approach control service and aerodrome control service;

"Authority" means the FSM Civil Aviation Authority;

"causes" means actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident;

"Chief Investigator" means the Chief Investigator appointed under regulation 6(2);

"Contracting State" means any State which is a party to the Convention on International Civil Aviation (Chicago Convention, 1944);

"flight recorder" means any type of recorder installed in the aircraft for the purpose of complementing accident and incident investigation;

"incident" means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

"investigator" means an investigator of accidents appointed under regulation 6(1);

"investigation" means a process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the making of safety recommendations;

"investigator-in-charge" means a person charged, on the basis of his qualifications, with the responsibility for the organization, conduct and control of an investigation; into a specific accident or incident;

"Minister" means the Secretaryfor the time being responsible for matters relating to civil aviation;

"Non-contracting State" means any State which is not a party to the Chicago Convention;

"operator" means a person, organization or enterprise engaged in or offering to engage in an aircraft operation;

"owner", in relation to an aircraft which is registered, means the registered owner of the aircraft; and in the case of an aircraft which is not registered the person who has effective control of the aircraft;

"pilot-in-command", means the pilot designated by the operator, or in the case of general aviation, the owner, as being in command and charged with the safe conduct of a flight;

"preliminary report" means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;

"safety recommendation" means a proposal of the investigator in-charge , based on information derived from the investigation, made with the intention of preventing future accidents or incidents;

"serious incident" means an incident involving circumstances indicating that an accident nearly occurred;

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

(a) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was sustained ;

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

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

(d) involves injury to any internal organ;

(e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or

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

"State of design" means the State having jurisdiction over the organization responsible for the aircraft type design;

"State of manufacture" means the State having jurisdiction over the organization responsible for the final assembly of the aircraft;

"State of occurrence" means the State in the territory of which an accident or incident occurs;

"State of the operator" means the State in which the operator's principal place of business is located or, if there is no such place of business, the operator's permanent residence;

"State of registry" means the State on whose register the aircraft is entered;

"State aircraft" " means-

(a) aircraft in the military service of FSM or any other state and aircraft that are commanded by members of the military forces of FSM or such a state who are detailed for the purpose of commanding such aircraft; and

(b) aircraft used in the customs or police service of FSM or any other state;

Application

3. These regulations shall apply to any accident or incident arising out of or in the course of air navigation which occurs to any civil aircraft in or over the FSM , or elsewhere to aircraft registered in the FSM .

PART II

INVESTIGATIONS

Objective of investigation

4. (1) The objective of the investigation of an accident or incident under these Regulations shall be the prevention of accidents and incidents.

(2) Subject to sub regulation (1), the purpose of such an investigation shall not be to apportion blame or liability.

(3) An investigation shall include |

(a) the gathering, recording and analysis of all available information and evidence on the accident or incident;

(b) if appropriate, the issuance of safety recommendations;

(c) if possible, the determination of the causes; and

(d) in the case of an accident or serious incident, the compilation of the final report.

(4) The format of the final report shall be as specified in the First Schedule to these Regulations, provided that it may be adapted to the circumstances of the accident or incident

Manual of accident and incident investigation

5. (1) The accident investigation branch/bureau shall have in place a Manual of aircraft accident and incident investigation.

(2) The manual shall contain information and instructions necessary to enable the investigators to perform their duties.

Investigators of accidents

6.(1) For the purpose of carrying out aircraft accident and incident investigations, the Secretarymay appoint investigators of accidents by gazette notice.

(2) The Secretaryshall appoint a Chief Investigator. and a Deputy Chief Investigator from among the persons appointed under sub-regulation (1).

(3) The Chief Investigator may delegate any of his powers and obligations under these Regulations to the Deputy Chief Investigator.

Obligation to investigate

7.(1) Subject to sub-regulation (7), the Chief Investigator shall cause an investigation to be carried out into an accident or serious incident in the following circumstances-

(a) where the accident or serious incident occurs in the FSM ;

(b) where the accident or serious incident occurs in any non-contracting State which does not intend to carry out an investigation of the accident or serious incident and involves a FSM aircraft or an aircraft operated by a FSM operator;

(c) where the accident or serious incident involves a FSM aircraft or an aircraft operated by a FSM operator and the investigation has been delegated to the FSM by another Contracting FSM by mutual arrangement and consent; or

(d) where the accident or serious incident occurs in a location which cannot be definitely established as being in the territory of any State and involves a FSM aircraft.

(2) In the event of an accident or incident involving a civilian aircraft and a military or State aircraft, investigation shall be conducted in accordance with the provision of these regulations, with the military or the State being a party to investigation.

(3) The Chief Investigator may, when he expects to draw air safety lessons from it, cause an investigation to be carried out into an incident which occurs —

(a) in the FSM ; or

(b) outside the FSM involving a FSM aircraft or an aircraft operated by a FSM operator.

(4) The Chief Investigator may designate himself or any investigator as investigator-in-charge for the purpose of carrying out an investigation referred to in sub-regulation (1), (2) or (3).

(5) Without prejudice to the power of an investigator-in-

charge under regulation 14 (3) (k), the Chief Investigator, in consultation with the investigator-in-charge, may appoint any person as an adviser to assist an investigator-in-charge in carrying out an investigation under these Regulations.

(6) In any case where the chief investigator is of the view that more than one investigator is needed to carry out an investigation, he may appoint more investigators, one of whom shall be designated deputy investigator-in-charge, to assist the investigator-in-charge.

(7) The Chief Investigator may, with the approval of the Minister, delegate the task of carrying out an investigation into an accident or a serious incident to another Contracting State or accident investigation authority by mutual arrangement and consent.

(8) Where the Chief Investigator delegates the task of carrying out an investigation, he shall, facilitate investigation carried out by the investigator-in-charge appointed by the Contracting State conducting the investigation.

(9) Where the Chief Investigator is of the opinion that it would be desirable for public notice to be given that an investigation is taking place, he may do so in such manner as he may deem fit.

(10) The notice referred to in sub regulation (9) may, if the Chief Investigator thinks appropriate, state that any person who desires to make representations concerning the circumstances or causes of the accident or incident may do so orally or in writing within a time to be specified in the notice.

Notification of accidents and incidents

8.—(1) Where an accident or a serious incident occurs |

(a) in the FSM ; or

(b)outside the FSM which involves a FSM aircraft or an aircraft operated by a FSM operator,

the relevant person shall, as soon as practicable after he becomes aware of the accident or serious incident notify any of the following persons by the quickest means of communication available —

(i) the Chief Investigator

(ii) the nearest Air Traffic Service;

(iii) the police,

Indicating the place where the accident has occurred.

(2) The relevant person shall, not later than 24 hrs after becoming aware of the accident or serious incident send a written notice to the Chief Investigator stating;

(a)in the case of an accident, the identifying abbreviation "ACCID" or, in the case of a serious incident, the identifying abbreviation "INCID";

(b)the manufacturer, model, nationality and registration marks and serial number of the aircraft;

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

(d)the name of the pilot-in-command of the aircraft and the number and nationality of the crew and passengers on board the aircraft at the time of the accident or serious incident;

(e)the date and local time or Coordinated Universal Time (UTC) of the accident or serious incident;

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

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

(h)in the case of an accident, the number of crew members, passengers or other persons respectively killed or seriously injured as a result of the accident;

(i)a description of the accident or serious incident and the extent of damage to the aircraft so far as is known;

(j)the physical characteristics of the area in which the accident or serious incident occurred and an indication of access difficulties or special requirements to reach the site;

(k)the identification of the person sending the notice and where the accident or serious incident occurred outside the FSM , the means by which the investigator-in-charge and the accident investigation authority of the State of Occurrence may be contacted; and

(l)the presence and description of dangerous goods on board the aircraft, if any.

(3) Where an incident, other than a serious incident, occurs

(a) in the FSM ; or

(b) outside the FSM ;

which involves a FSM aircraft or an aircraft operated by a FSM operator, the relevant person or hirer of the aircraft shall, send to the Chief Investigator, such information as is in his possession or control with respect to the incident.

(4) In this regulation, "relevant person" means —

(a)the pilot-in-command, operator, or the owner of the aircraft at the time of the accident or serious incident; or

(b)where the accident or serious incident occurs on or adjacent to an aerodrome in the FSM , the owner or operator of the aerodrome.

Action to be taken upon receipt of notification

9.—(1) Where an accident or a serious incident occurs in the FSM involving a civil aircraft, the Chief Investigator shall:

(a)with the least possible delay and by the quickest means of communication available, forward a notification of the accident or serious incident containing information referred to in regulation 8(2) as may be available —

(i)to a contracting state that is the State of Registry, the State of the Operator, the State of Design or the State of Manufacture; and

(ii)if the aircraft is of a maximum certificated take-off mass of more than 2,250 kg, to the International Civil Aviation Organisation;

(b)inform the States referred to in paragraph (a)(i) either in the communication forwarding the notification or as soon as practicable;

(i)as to whether, and the extent to which an investigation may be conducted or is proposed to be delegated to another Contracting State; and

(ii)as to the means by which the Chief Investigator and the investigator-in-charge may be contacted;

(c)as soon as it is practicable to do so, provide the States referred to in paragraph (a)(i) with any other information referred to in regulation 8(2) which becomes subsequently available to the Chief Investigator and any other known relevant information pertaining to the accident or serious incident.

(2) Upon receipt of a notification of an accident or a serious incident which occurs outside the FSM involving a FSM aircraft

or an aircraft operated by a FSM operator, the Chief Investigator shall:

(a) acknowledge receipt of the notification;

(b)where the State of Occurrence, the State of Registry or the State of the Operator which is investigating the accident or serious incident is a Contracting State, provide the State with the following information with the least possible delay:

(i)any relevant information regarding the aircraft and flight crew involved in the accident or serious incident; and

(ii)if FSM is the State of the Operator, details of any dangerous goods on board the aircraft;

(c) inform the State referred to in paragraph (b) —

(i)whether the Secretaryintends to appoint or has appointed an accredited representative; and

(ii)if such accredited representative has been appointed and may be travelling to the State in which the investigation is being carried out, the contact details and the expected date of arrival of the accredited representative in such State.

Parties to Investigation

10.—(1) The investigator-in-charge shall designate parties to participate in the investigation.

(2)The Parties shall be limited to those persons, government agencies, companies, and associations whose employees, functions, activities, or products were involved in the accident or incident and who can provide suitable qualified technical personnel to actively assist in the investigation.

(3)Other than the Civil Aviation Authority, no other entity shall have the right to participate in the investigation, save as provided under regulation 7(2).

(4)The participants shall be under the direction of the investigator-in-charge through their respective party representatives and party coordinators and a party may lose party status if they do not comply with their assigned duties and activity proscription or instructions or if they conduct themselves in a manner prejudicial to the investigation.

Accredited representatives,

11.—(1) Where an investigation into an accident or a serious incident is being carried out by an investigator-in-charge under these

advisers from Contracting States

Regulations, each of the following States that is a Contracting State shall be invited to appoint an accredited representative to participate in the investigation and one or more advisers, to assist the accredited representative:

(a) the State of Registry;

(b) the State of the Operator;

(c) the State of Manufacture;

(d) the State of Design;

(e)a State which has provided information, facilities or experts to the investigator-in-charge in connection with the investigation.

(2) An accredited representative shall participate in all aspects of an investigation under the control of the investigator-in-charge and shall be entitled, in particular, to —

(a) visit the scene of the accident;

(b) examine the wreckage;

(c) obtain witness information and suggest areas for questioning witnesses;

(d) have full access to all relevant evidence as soon as possible;

(e) receive copies of all pertinent documents;

(f) participate in readouts of recorded media;

(g) participate in off-scene investigative activities including component examinations, technical briefings, tests and simulations;

(h) participate in investigation progress meetings, including deliberations related to analysis, findings, causes and safety recommendations; and

(i) shall be entitled to make submissions in respect of various aspects of the investigation.

(3) Notwithstanding sub-regulation (2), participation of the accredited representative of a Contracting State referred to in sub-regulation 1 (e) may be limited to those matters in respect of which

that State has provided information, facilities or experts to the investigator-in-charge in connection with the investigation.

(4) A Contracting State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens may, upon request to the investigator-in-charge, appoint an expert to participate in the investigation.

(5) An expert appointed under sub-regulation (4) may—

(a) visit the scene of the accident;

(b) have access to the relevant factual information;

(c) participate in the identification of victims;

(d)assist in questioning surviving passengers who are citizens of the expert's State; and

(e) receive a copy of the final report.

(6) An adviser assisting an accredited representative shall participate in the investigation under the accredited representative's supervision and to the extent necessary to make the accredited representative's participation effective.

(7) The accredited representative, his adviser and the expert appointed under sub-regulation (4) shall —

(a)provide the investigator-in-charge with all relevant information available to them; and

(b)not disclose any information on the progress and findings of the investigation without the express consent in writing of the investigator-in-charge.

Observers

12.A representative of a State or an air accident investigation authority from a State other than the States specified in regulation 11(1) may on request and with written permission of the Chief Investigator in consultation with the investigator-in-charge participate in an investigation as an observer.

Appointment of accredited representative, advisor and expert by Minister

13.—(1) The Secretarymay appoint an accredited representative to participate in the investigation into an accident or incident which occurs in another Contracting State and one or more advisers to assist the accredited representative where the FSM :

(a)is the State of Registry, State of the Operator, State of Manufacture or State of Design of the aircraft involved in the accident or incident; or

(b)has, at the request of the Contracting State conducting the investigation, provided information, facilities or experts to the State in connection with the investigation.

(2) The Secretarymay appoint an expert to participate in the investigation into an accident which occurs in another Contracting State where the FSM has a special interest in the accident by virtue of fatalities or injuries to citizens of the FSM .

(3) The accredited representative and, to the extent specified by the Chief Investigator, an adviser appointed by the Secretaryunder sub-regulation (1) may, for the purposes of the investigation in which they are participating, under the control of the investigator-in-charge exercise all or any of the rights and powers of the investigator-in-charge specified in regulation 14(2) and 14 (3).

(4) The Secretarymay, if he deems appropriate, authorise the Chief Investigator to exercise the Minister's power under sub-regulation (1) either generally or in any particular case.

Powers of investigators and advisors

14.—(1) Where the whole or any part of the investigation is carried out in FSM an investigator-in-charge shall have the access rights and powers specified in sub-regulations (2) and (3) to carry out an investigation into an accident or incident in the most efficient way and within the shortest period possible.

(2) The investigator-in-charge shall have —

(a)free and unhindered access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;

(b) powers to secure and preserve the scene of the accident;

(c)immediate and unrestricted access to and use of the contents of the flight recorders, Air Traffic Service records and any other recordings;

(d)access to the results of examination of the bodies of victims or tests made on samples taken from the bodies of the victims;

(e)immediate access to the results of examinations of the persons involved in the operation of the aircraft or tests made on samples taken from such persons; and

(f) free access to any relevant information or records held

by the owner, the operator, the operator's maintenance contractors and sub-contractors, the hirer, the designer or the manufacturer of the aircraft and by the authorities for civil aviation or airport operation or Air Traffic Service.

(3) The investigator-in-charge may —

(a) by summons under his hand —

(i)call before him and examine any person as he deems appropriate ;

(ii)require such person to answer any question or furnish any information or produce any books, papers, documents and articles which he may consider relevant; and

(iii) retain any such books, papers, documents and articles until the completion of the investigation;

(b)take statements from all such persons as he deems fit and require each of such persons to make and sign a declaration of the truth of the statement made by him;

(c)on production, if required, of his credentials, enter and inspect any place, building or aircraft the entry or inspection whereof appears to him to be necessary for the purposes of the investigation;

(d)on production, if required, of his credentials, remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to him to be necessary for the purposes of the investigation;

(e)take possession of, examine, remove, test or take measures for the preservation of any object or evidence he considers necessary for the purposes of the investigation;

(f)order for immediate listing of evidence and removal of debris or components for examination or analysis purposes;

(g) order for the readout of the flight recorders;

(h)in the case of a fatal accident, require a complete autopsy examination of fatally injured flight crew, and, when necessary, passengers and cabin crew by a pathologist, and if a pathologist experienced in the investigation of aircraft accidents is available, by such pathologist;

(i)where appropriate, require the medical and toxicological examination of the crew, passengers and aviation personnel involved in the accident or incident by a medical practitioner, and if a medical practitioner experienced in the investigation of aircraft accidents is available, by such medical practitioner;

(j)require the crew, passengers and aviation personnel involved in the accident or incident to undergo such other tests including a breathalyser test within reasonable time for the purposes of the investigation; and

(k)seek such advice or assistance as he considers necessary for the purposes of the investigation.

(4) The investigator-in-charge may delegate to his deputy or any other investigator the rights and powers vested in him in sub-regulations (2) and (3), where the whole or any part of the investigation is carried out in the FSM .

(5) Without prejudice to the generality of sub-regulation (3)(k), the investigator-in-charge may, in consultation with the Chief Investigator request another Contracting State to provide such information, facilities or experts as he may consider necessary for the purposes of an investigation.

Form and conduct of investigations

15.—(1) An investigation shall not be open to the public.

(2) The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under these Regulations shall be determined by the Chief Investigator taking into account —

(a)the objective of the investigation set out in these Regulations;

(b)the lessons expected to be drawn from the aircraft accident or incident for the improvement of safety; and

(c) the complexity of the investigation.

(3) Where, in the course of an investigation into an accident or a serious incident, it becomes known or is suspected that an act of unlawful interference was involved, the investigator-in-charge shall, after consultation with the Chief Investigator and the Secretary—

(a) immediately inform the police; or

(b)take steps to ensure that the aviation security authorities of other Contracting States concerned are informed of the fact.

Assistance to survivors and families

16.-(1) The Chief Investigator shall ensure assistance to the survivors and to the families of victims and survivors of an accident which is the subject of an ongoing investigation by:

(a) communicating all relevant information in time:

(b)facilitating their entry into and exit from the country; and the repatriation of victims

(c)coordinating assistance efforts by the government, airlines and humanitarian and other organisations.

(2)The Chief Investigator shall develop instructions for better implementation of sub regulation (1).

Investigation reports

17.—(1) Where an investigation is carried out into an accident or serious incident involving -

(a)an aircraft of a maximum certificated take-off mass of more than 2,250 kg; or

(b)an aircraft of a maximum certificated take-off mass of 2,250 kg or less and when airworthiness or matters considered to be of interest to other Contracting States are involved, the investigator-in-charge shall, unless an Accident Data Report has been sent within 30 days of the accident, send a Preliminary Report within that period to-

(i) each of the Contracting State that is the;

(ii) State that instituted the investigation;

(iii) State of Registry or the State of occurrence, as appropriate;

(iv) State of the operator;

(v) State of design;

(vi) State of manufacture;

(vii) State that provided relevant information, significant facilities or experts; and

(viii) the International Civil Aviation Organisation where the aircraft is of a maximum certificated take-off mass of more than 2,250 kg.

(2) The investigator-in-charge shall as soon as possible after the completion of an investigation into an accident -

(a) send a copy of the draft of the Final Report to all the Contracting States that participated in the investigation and in the case of investigation conducted under provisions of regulation 7(1)(c), requesting for their significant and substantiated comments thereon; and

(b) if any such comments are received within 60 days of the date of the transmittal letter or such longer period as may be agreed upon, amend the draft Final Report to include the substance of the comments received, as deemed appropriate or, if desired by the Contracting State that provided the comments, append the comments to the Final Report.

(3) subject to sub-regulation 2(b), if no comments are received and no extension of time has been agreed upon with the Contracting State to whom the Final Report was sent, it shall be issued and sent to —

(i) Contracting States referred to in sub-regulation (1);

(ii) Contracting State that has suffered fatalities or serious injuries to its citizens; and

(iii) the International Civil Aviation Organisation, where the accident involves an aircraft of a maximum certificated take-off mass of more than 5,700 kg;

(iv) send the Accident Data Report to the International Civil Aviation Organisation, where the accident involves an aircraft of a maximum certificated take-off mass of more than 2,250 kg.

(4) The investigator-in-charge shall, where an investigation is carried out into a serious incident involving an aircraft of a maximum certificated take-off mass of more than 5,700 kg, send to the International Civil Aviation Organisation after the completion of the investigation into the incident —

(a) the Final Report of the incident, if the Final Report has been released; and

(b) the Incident Data Report.

(5) The Chief Investigator may from time to time issue a list of

incidents to be regarded as serious incidents for the purposes of these regulations

(6) The Final Report shall be submitted by the Chief Investigator to the Secretarybefore dissemination to any State under these Regulations.

Release of the final report

18.(1) The Secretaryshall release the final report of the investigation of an aircraft accident or serious incident within twelve months from the date of the occurrence of accident or incident.

(2) Where it is not possible to release the report as provided in sub regulation (1) the Secretarymay release interim reports periodically but not later than on each anniversary of the occurrence detailing the progress of the investigation and any safety issues raised.

Publication of reports

19.(1) The Chief Investigator shall, with the approval of the Minister, cause the report of an investigation into an aircraft accident or serious incident to be made public after the expiry of thirty days;

Provided that the Chief Investigator shall cause the final report to be made public upon the expiry of sixty days after its presentation under regulation 18 (1).

(2)The final report shall be made public within fourteen days after it has been sent out to the relevant Contracting States referred to under these regulations.

(3)A person shall not circulate, publish, disclose or give access to any draft report or any part of its contents or any documents obtained during an investigation of an aircraft accident or incident unless the report has already been published by the Chief Investigator.

Incident reporting systems

20. (1) There shall be established by the Minister-

(a) a mandatory incident reporting system to facilitate collection of information on actual or potential safety deficiencies; and

(b) a voluntary incident reporting system to facilitate the collection of information that may not be captured by a mandatory incident reporting system.

(2) An incident reporting system established under sub regulation (1) above shall be non-punitive and afford protection to the information and to the sources of the information provided that this sub regulation shall not apply in cases where there is evidence that the occurrence was caused by an act considered, in accordance with the law, to be conducted with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or willful misconduct;

(3) Information gathered through an incident reporting system shall not be put to inappropriate use.

(4) A person seeking public disclosure of the information referred to in sub regulation (3) shall apply to the court for an order for such release and for this purpose shall satisfy the court that such disclosure:-

(a) Is necessary to correct conditions that compromise safety or to change policies and regulations;

(b) does not inhibit its future availability in order to improve safety;

(c) where relevant personal information included in the safety information complies with applicable privacy laws; and

(d) shall be made in a de-identified, summarized or aggregate form.

(5) For purposes of this regulation "inappropriate use" refers to the use of safety information for purposes different from the purposes for which it was collected, namely, aviation safety.

Accident and incident database

21.— (1) The Chief investigator shall establish an accident and incident database for the purposes of analysis of safety information received

(2) The chief investigator may disseminate information received under sub regulation (1) to users of the aviation system within and outside state in order to facilitate the free exchange of information on actual and potential safety deficiencies.

Safety recommendations

22.—(1) The Chief Investigator or the investigator-in-charge may, at any stage of an investigation carried out under these Regulations -

(a) recommend to the appropriate authorities, including those in other Contracting States, any preventive action

that the investigator-in-charge considers necessary to be taken promptly to enhance aviation safety; and

(b) address, when appropriate, any safety recommendation arising out of the investigation to the accident investigation authorities of the other Contracting States concerned and to the International Civil Aviation Organisation.

(2) The Chief Investigator shall communicate to relevant persons or authorities in the FSM , the recommendations referred to in sub-regulation (1); or those received from another Contracting State

(3) Any person or authority in the FSM to whom a recommendation has been communicated under sub-regulation (2) shall, without delay —

(a) take that recommendation into consideration and, where appropriate, act upon it;

(b) send to the Chief Investigator—

(i) full details of the measures, if any, he or it has taken or proposes to take to implement the recommendation and, if such measures are to be implemented, the schedule for the implementation; or

(ii) a full explanation as to why no measures shall be taken to implement the recommendation; and

(c) give notice to the Chief Investigator if at any time any information provided to the Chief Investigator under paragraph (b) concerning the measures he or it proposes to take or the schedule for securing the implementation of the recommendation is rendered inaccurate by any change of circumstances.

(4) A recommendation for preventive action or safety recommendation shall, in no case, create a presumption of liability for an aircraft accident or incident.

(5) Where any recommendation for preventive action or a safety recommendation has been forwarded to the Secretaryor to the Chief Investigator by another Contracting State, the Chief Investigator shall notify that State of the preventive action taken or under

consideration or the reasons as to why no action shall be taken.

Removal of damaged aircraft

23.(1) Subject to regulations 6(3) and 7(5), where an accident or a serious incident occurs in the FSM , no person shall;

(a) have access to the aircraft involved in the accident or serious incident, the contents thereof or the site of the accident or serious incident, other than the Chief Investigator, the investigator-in-charge or an authorised person; or

(b) move or interfere with the aircraft, its contents or the site of the accident or serious incident except under the authority of the Chief Investigator or the Investigator-in-charge.

(2) Notwithstanding sub-regulation (1) —

(a) the aircraft involved in an accident or a serious incident may be moved or interfered with to such extent as may be necessary for all or any of the following purposes:-

(i) extricating persons or animals;

(ii) removing any mail, valuables or dangerous goods carried by the aircraft;

(iii) preventing destruction by fire or other cause; and

(iv) preventing any danger or obstruction to the public, air navigation or other transport;

(b) where the aircraft is wrecked in water, the aircraft or any contents thereof may be moved to such extent as may be necessary for bringing the aircraft or its contents to a place of safety.

(3) Where the Chief Investigator or the investigator-in-charge has authorised any person to remove any goods or passenger baggage from the aircraft or to release any goods or passenger baggage from the custody of the Chief Investigator or the investigator-in-charge, that person may:-

(a) remove the goods or passenger baggage from the aircraft subject to the supervision of a police officer; and

(b) release the goods or passenger baggage from the custody of the Chief Investigator or the investigator-in-charge subject to clearance by or with the consent of an officer of customs, if the aircraft has come from a place outside the FSM .

(4) Where the Chief Investigator or the investigator-in-charge is of the opinion that the aircraft involved in the accident or serious incident is likely to endanger or obstruct the public, air navigation or other transport, he may order the owner, operator or hirer of such aircraft to remove it to such place as the Chief Investigator or the investigator-in-charge may indicate.

(5) In the absence of the owner, operator or hirer or in the event of non-compliance with the instruction given pursuant to sub-regulation (4), the Chief Investigator or the investigator-in-charge may remove or cause the removal of the aircraft and shall not be liable for any further damage that may occur during removal.

(7) In this regulation, "authorised person" means any person authorised by the Chief Investigator or the investigator-in-charge either generally or specifically to have access to any aircraft involved in an accident or a serious incident and includes any police officer or any officer of customs.

(8) The police officer referred to in sub- regulation (7) shall be responsible for the maintenance of law and order and preservation of the site of accident pending the arrival of the investigator-in-charge.

Protection of evidence, custody and removal of aircraft

24.—(1) The investigator-in-charge shall take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for such period as may be necessary for the purposes of an investigation.

(2) Any person in possession of any item which may constitute evidence for purpose of an investigation under these regulations shall hold and preserve the same and shall promptly hand them over to the investigator-in-charge.

(3) Protection of evidence shall include the preservation, by photographic or other means of any evidence which might otherwise be removed, effaced, lost or destroyed.

(4) Subject to sub regulation (1) safe custody shall include protection against further damage, access by unauthorized persons,

pilfering and deterioration.

Flight recorders read out

25.—(1) The investigator-in-charge shall arrange for the read-out of the flight recorders without delay.

(2) Where there are no adequate facilities to read out the flight recorders, such facilities available from other States may be used taking into consideration the:

(a) capabilities of the read-out facility;

(b) timeliness of the read-out; and

(c) location of the read-out facility.

Autopsy examination

26.The investigator-in-charge shall arrange for complete autopsy examination of fatally injured flight crew and, subject to the particular circumstances, of fatally injured passengers and cabin crew members, by a pathologist, preferably experienced in accident investigation.

Reopening of investigation

27.(1) The Chief Investigator may recommend to the Minister to re-open the investigation, where new and significant evidence becomes available after the accident or serious incident investigation has been closed.

(2) The Chief Investigator may cause the investigation of an incident other than a serious incident to be re-opened if evidence has been disclosed after the completion of the investigation which, in his opinion, is new and significant.

(3) Where the investigation of an accident or a serious incident has been instituted by another Contracting State, the Minister shall obtain the consent of that State before causing the investigation to be re-opened under sub-regulation (1).

(4) Any investigation which is re-opened shall be carried out in accordance with these Regulations.

PART III

GENERAL PROVISIONS

Obstruction of investigation

28.(1) A person shall not obstruct an investigator or any person acting under the authority of the Secretaryor the Chief Investigator in the exercise of any rights, powers or duties under these Regulations.

(2) A person shall not, without reasonable cause, fail to comply with any summons of —

(a) an investigator-in-charge carrying out an investigation under these Regulations; or

(b) any person empowered to exercise the powers of the investigator-in-charge under regulation 14(4).

(3) The onus of proving reasonable cause for failing to comply with a summons shall lie on the person relying on such excuse.

Non-disclosure of records

29.(1) Information collected in the course of an investigation shall not be disclosed or made available to any other person other than in connection with an investigation carried out under these Regulations or in compliance with an order from a court of competent jurisdiction.

(2) Information referred to in sub regulation (1) shall include but not be limited to the following:

(a) statements taken from persons in the course of an investigation;

(b) communication between persons having been involved in the operation of the aircraft;

(c) medical or private information regarding persons involved in the accident or incident;

(d) cockpit voice recording and transcript from such recording;

(e) Air Traffic Service recording and transcript from such

recording; or

(f) opinion expressed in the analysis of information, including flight recorder information.

(3) A record of the information referred to in sub-regulation (2) shall be included in the final report or its appendices or in any other report only when it is relevant to the analysis of the accident or incident.

Release and disposal of aircraft and wreckage

30.(1) Where the retention of the aircraft involved in an accident or incident, parts of the aircraft or aircraft wreckage, or any contents of the aircraft is no longer necessary for the purposes of an investigation, the Chief Investigator shall release custody of the aircraft, parts, wreckage or contents to the following person or persons:

(a) if it is a FSM registered aircraft —

(i) the owner of the aircraft, parts, wreckage or contents;

(ii) where the owner is dead, his personal representative; or

(iii) a person authorised in writing by the owner or his personal representative to take custody on behalf of the owner or the owner's personal representative;

(b) in any other case, to the person or persons designated by the State of Registry or the State of the Operator, as the case may be.

(2) The Investigator-in-charge shall,-

(a)whereheintendstoreleaseaircraft wreckage, issue a notice to persons referred to in sub regulation (1); or

(b) where such persons cannot be traced, by publishing such notice in at least two daily newspapers of wide circulation in the state of occurrence giving details of the aircraft wreckage and specifying the period during which it should be removed.

(3) The person to whom the notice has been issued may, before

the expiry of the notice and for good cause, apply in writing to the Chief Investigator for an extension of the period within which the wreckage may be removed.

(4) Where a person to whom custody of the aircraft, parts, wreckage or contents is to be released fails to take custody within the period specified in the notice, the aircraft, parts, wreckage or contents may be disposed of in such manner as the Chief Investigator considers fit.

(5) The expenses incurred by the Chief Investigator in disposing of the aircraft, parts, wreckage or contents shall be recoverable from the owner or operator of the aircraft or both.

Return and disposal of records

31.—(1)The Chief Investigator on the advice of the investigator-in-charge, shall, after the completion of the investigation or at any time determined by the investigator-in-charge, return the aircraft records or any documents containing factual information concerning an accident or incident to the persons from whom they were obtained, unless they are still required for judicial proceedings or other proceedings.

(2) The records and information referred to in sub-regulation (1) not claimed by or returned to the persons from whom they were obtained, may be disposed of in any manner that the chief investigator considers fit after a period of three years.

Penalties

32. A person who contravenes any provision of these Regulations, commits an offence and upon conviction, shall be liable to a fine of not more than [one thousands United States dollars] or to imprisonment for a term not more than six months or to both, and in a case of a continuing offence shall be liable to a fine of not more than ……. United States dollars for each day the offence continues..

Revocation and saving

GN No. …….

33.—(1) The Civil Aviation (Investigation of Accidents) Regulations, [.....]…….., are hereby revoked.

2) Notwithstanding sub regulation (1) any investigation, review or inquiry commenced under those regulations shall be continued as if they were instituted under these regulations.

FIRST SCHEDULE

Made under Regulation 4

FORMAT OF THE FINAL REPORT

PURPOSE

The purpose of this format is to present the Final Report in a convenient and uniform manner. Detailed guidance on completing each section of the Final Report is found in the Manual of Aircraft Accident Investigation.

FORMAT

Title

The Final Report begins with a title comprising: name of the operator; manufacturer, model, nationality and registration marks of the aircraft; place and date of the accident or incident.

Synopsis

Following the title is a synopsis describing briefly all relevant information regarding: notification of accident to national and foreign authorities; identification of the accident investigation authority and accredited representation; organization of the investigation; authority releasing the report and date of publication; and concluding with a brief résumé of the circumstances leading to the accident.

Body

The body of the Final Report comprises the following main headings:

1. Factual information
2. Analysis
3. Conclusions
4. Safety recommendations

Each heading consisting of a number of sub-headings as outlined in the following.

Appendices

Include as appropriate.

Note.— In preparing a Final Report, using this format, ensure that:

a) all information relevant to an understanding of the factual information, analysis and conclusions is included under each appropriate heading;

b) where information in respect of any of the items in 1.— Factual information is not available, or is irrelevant to the circumstances leading to the accident, a note to this effect is included under the appropriate sub-headings.

1. FACTUAL INFORMATION

1.1 History of the flight. A brief narrative giving the following information:
— Flight number, type of operation, last point of departure, time of departure (local time or UTC), point of intended landing.
— Flight preparation, description of the flight and events leading to the accident, including reconstruction of the significant portion of the flight path, if appropriate.
— Location (latitude, longitude, elevation), time of the accident (local time or UTC), whether day or night.

1.2 Injuries to persons. Completion of the following (in numbers):

Injuries	Crew	Passengers	Others
Fatal			
Serious			
Minor/None			

Note. — Fatal injuries include all deaths determined to be a direct result of injuries sustained in the accident. Serious injury is defined in Chapter 1 of the Annex.

1.3 Damage to aircraft. Brief statement of the damage sustained by aircraft in the accident (destroyed, substantially damaged, slightly damaged, no damage).

1.4 Other damage. Brief description of damage sustained by objects other than the aircraft.

1.5 Personnel information:

a) Pertinent information concerning each of the flight crew members including: age, validity of licences, ratings, mandatory checks, flying experience (total and on type) and relevant information on duty time.

b) Brief statement of qualifications and experience of other crew members.

c) Pertinent information regarding other personnel, such as air traffic services, maintenance, etc., when relevant.

1.6 Aircraft information:

a) Brief statement on airworthiness and maintenance of the aircraft (indication of deficiencies known prior to and during the flight to be included, if having any bearing on the accident).

b) Brief statement on performance, if relevant, and whether the mass and centre of gravity were within the prescribed limits during the phase of operation related to the accident. (If not and if of any bearing on the accident give details.)

c) Type of fuel used.

1.7 Meteorological information:
a) Brief statement on the meteorological conditions appropriate to the circumstances including both forecast and actual conditions, and the availability of meteorological information to the crew.

b) Natural light conditions at the time of the accident (sunlight, moonlight, twilight, etc.).

1.8 Aids to navigation. Pertinent information on navigation aids available, including landing aids such as ILS, MLS, NDB, PAR, VOR, visual ground aids, etc., and their effectiveness at the time.

1.9 Communications. Pertinent information on aeronautical mobile and fixed service communications and their effectiveness.

1.10 Aerodrome information. Pertinent information associated with the aerodrome, its facilities and condition, or with the take-off or landing area if other than an aerodrome.

1.11 Flight recorders. Location of the flight recorder installations in the aircraft, their condition on recovery and pertinent data available therefrom.

1.12 Wreckage and impact information. General information on the site of the accident and the distribution pattern of the wreckage; detected material failures or component malfunctions. Details concerning the location and state of the different pieces of the wreckage are not normally required unless it is necessary to indicate a break-up of the aircraft prior to impact. Diagrams, charts and photographs may be included in this section or attached in the Appendices.

1.13 Medical and pathological information. Brief description of the results of the investigation undertaken and pertinent data available therefrom.

Note.— Medical information related to flight crew licences should be included in 1.5 — Personnel information.

1.14 Fire. If fire occurred, information on the nature of the occurrence, and of the fire fighting equipment used and its effectiveness.

1.15 Survival aspects. Brief description of search, evacuation and rescue, location of crew and passengers in relation to injuries sustained, failure of structures such as seats and seatbelt attachments.

1.16 Tests and research. Brief statements regarding the results of tests and research.

1.17 Organizational and management information.
Pertinent information concerning the organizations and their management involved in influencing the operation of the aircraft. The organizations include, for example, the operator; the air traffic services, airway, aerodrome and weather service agencies; and the regulatory authority. The information could include, but not be limited to, organizational structure and functions, resources, economic status, management policies and practices, and regulatory framework.

1.18 Additional information. Relevant information not already included in 1.1 to 1.17.

1.19 Useful or effective investigation techniques. When useful or effective investigation techniques have been used during the investigation, briefly indicate the reason for using these techniques and refer here to the main features as well as describing the results under the appropriate sub-headings 1.1 to 1.18.

2. ANALYSIS

Analyse, as appropriate, only the information documented in 1. — Factual information and which is relevant to the determination of conclusions and causes.

3. CONCLUSIONS

List the findings and causes established in the investigation. The list of causes should include both the immediate and the deeper systemic causes.

4. SAFETY RECOMMENDATIONS

As appropriate, briefly state any recommendations made for the purpose of accident prevention and any resultant corrective action.

APPENDICES

Include, as appropriate, any other pertinent information considered necessary for the understanding of the report.