

CAYMAN ISLANDS

THE COLONIAL CIVIL AVIATION (APPLICATION OF
ACT) ORDER, 1952

THE CIVIL AVIATION (INVESTIGATION OF ACCIDENTS)
REGULATIONS, 1971

Made under paragraph 3 of the First Schedule to the above
Order.

In exercise of the powers conferred upon the Adminis-
trator by the Colonial Civil Aviation (Application of Act)
Order, 1952, and of all other powers enabling him in that
behalf, the following Regulations are hereby made:-

INTERPRETATION AND APPLICATION

1. These Regulations shall come into operation on the
26th of January, 1971 and may be cited as the Civil Avia-
tion (Investigation of Accidents) Regulations, 1971.

2. In these Regulations, unless the context otherwise
requires -

“Administrator” means the officer for the time being
administering the Government of the Colony, and in-
cludes, in relation to any purpose of these Regula-
tions, any person authorised by the Administrator for
the purpose, and references to a person authorised
by the Administrator include references to the holder
for the time being of any office designated by the
Administrator;

“commander” in relation to an aircraft means the mem-
ber of the crew designated as commander of that air-
craft by the operator thereof, or failing such a person,
the person who is for the time being the pilot in com-
mand of the aircraft;

“Inspector” means a person appointed as an Inspec-
tor of Accidents under these Regulations;

“operator” in relation to an aircraft means the per-
son for the time being having the management of that
aircraft;

“owner” means, where an aircraft is registered, the
registered owner;

“pilot in command” in relation to an aircraft means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot of the aircraft;

“Regulations” mean these Regulations;

“substantial damage” includes any damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft and which would normally require the major repair or replacement of the affected component.

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

PURPOSE OF ACCIDENT INVESTIGATION

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

DUTY TO FURNISH INFORMATION RELATING TO ACCIDENTS

5. An accident shall be notified in accordance with the provisions of Regulation 6 if, between the time when any person boards an aircraft with the intention of flight and such time as all persons have disembarked therefrom -

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

(b) the aircraft receives substantial damage.

6. (1) Where an accident occurs of which notification is required to be given under Regulation 5 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 shall forthwith give notice thereof to the Administrator by the quickest means of communication available and in the case of an accident occurring in or over the

Islands shall also notify the Commissioner of Police of the accident and the place where it occurred.

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

- (a) the type, model and the nationality and registration marks of the aircraft;
- (b) the name of the owner, operator and hirer, if any, of the aircraft;
- (c) the name of the commander of the aircraft;
- (d) the date and local time of the accident;
- (e) the last point of departure and the next point of intended landing of the aircraft;
- (f) the position of the aircraft with reference to some easily defined geographical point;
- (g) (i) the number of persons on board the aircraft at the time of the accident,
(ii) the number of those persons killed as a result of the accident,
(iii) the number of those persons seriously injured as a result of the accident,
(iv) the number of persons killed or seriously injured elsewhere than on the aircraft,
- (h) the nature of the accident and brief particulars of 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 islands or elsewhere, the owner, operator, commander or hirer of the aircraft shall, if so required by notice in writing from the Administrator, send to the Administrator 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 Administrator may require.

REMOVAL OF DAMAGED AIRCRAFT

7. (1) Where an accident occurs in or over the Islands,

of which notification is required to be given under Regulation 5, no person other than an authorised person shall have access to the aircraft involved in the accident and the aircraft shall not except under the authority of the Administrator be removed or otherwise interfered with.

(2) In this Regulation the expression "authorised person" means any person authorised by the Administrator either generally or specially to have access to any aircraft involved in an accident and includes any constable or Customs Officer.

INSPECTOR OF ACCIDENTS

8. (1) For the purpose of carrying out investigation into the circumstances and causes of accidents to which these Regulations apply the Administrator shall appoint an Inspector of Accidents.

(2) In the case of any accident, whether or not such an accident is one of which notification is required to be given under Regulation 5, the Inspector shall determine whether or not an investigation is to be carried out.

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

POWERS OF THE INSPECTOR

9. For the purpose of the investigation of any accident to which these Regulations apply, the Inspector shall have power -

(a) by summons under his hand to call before him and examine all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce any books, papers, documents and articles which the Inspector may consider relevant, and to retain any such books,

papers, documents and articles until the completion of the investigation or any Review under Regulation 12;

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

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

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

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

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

INSPECTOR'S INVESTIGATION

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

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

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

(4) Every person summoned by the Inspector as a witness in accordance with these Regulations shall be

allowed such expenses as the Administrator may determine.

(5) Subject to the provisions of Regulation 11, upon completion of the Inspector's investigation, the Inspector shall make a report to the Administrator. The report shall state the circumstances of the accident and conclusions as to the cause together with any observations and recommendations which the Inspector thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in the future.

NOTICE AND REPRESENTATIONS

11. (1) No report shall be made to the Administrator under Regulation 10 (5) in respect of an accident until the Inspector has -

- (a) served a notice under this Regulation upon the operator and commander of the aircraft involved in that accident and on any other person, including the Administrator, whose reputation is, in the Inspector's opinion, likely to be adversely affected by the report, and
- (b) considered any representations which may be made to him in accordance with paragraph (3) of this Regulation by or on behalf of the persons served with such notice.

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

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

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

REVIEW BOARD

12. (1) Any person, other than the Administrator, who has been served with a notice pursuant to Regulation 11 (1) may, at any time before the expiration of the period of 21 days from the day on which he has been served with a copy of the report to the Administrator, serve on the Administrator written notice (hereinafter called "the notice of review") that he wishes those findings and conclusions in the report from which it appears that any degree of blame for the accident may be attributed to him, or any deceased person whose personal representative he is, to be reviewed by a Review Board.

(2) The Review Board shall consist of the Judge of the Grand Court sitting with such technical assessors, if any, as the Judge, in his discretion, may appoint.

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

(4) A copy of the notice of review shall also be served by the person requesting the review on each of the persons on whom the Inspector has served a notice under Regulation 11; and for this purpose the

person requesting the review may require the Inspector to furnish him with the names and addresses of those persons.

(5) In a case where the Administrator having made representations pursuant to Regulation 11 (1) wishes those findings and conclusions in the report from which it appears that any degree of blame for the accident may be attributed to the Administrator to be reviewed by a Review Board appointed under this Regulation, the Administrator shall before the expiry of the period of 14 days from the day of receipt by the Administrator of the Inspector's report, serve a notice of the review on the Attorney-General. The Administrator shall serve a copy of the notice on each of the persons on whom the Inspector has served a notice under Regulation 11.

13. (1) Where notice of review has been served under Regulation 12, the Administrator shall forthwith entrust to the Review Board.

(2) The Administrator shall serve on the person requesting the review and all persons on whom the Inspector has served a notice under Regulation 11, not less than 21 days notice of the date, time and place of hearing of the review (hereinafter called "the notice of hearing").

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

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

(5) The person requesting the review shall be heard

by the Review Board and shall have the right to produce witnesses and examine any other witnesses giving evidence at the review.

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

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

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

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

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

(11) The Review Board may, if it thinks fit, order any person who appears or is represented as mentioned in paragraph (8) of this Regulation to pay in respect of the costs of the Review Board such sums as may be specified in the order and such costs shall be recoverable by execution from the Grand Court.

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

PUBLICATION OF REPORTS

14. The Administrator 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 given under Regulation 11 (1) of these Regulations, the Inspector's report shall not be published before the expiry of the time for service of a notice of review under Regulation 12 (1);
- (ii) in any case where a Review Board is held, the Inspector's report shall not be published until the completion of the review.

GENERAL

15. (1) Where an accident has occurred in or over the Islands to an aircraft registered in any country or

territory other than the Islands, the Administrator may authorise an investigator appointed by the duly competent authority of that other country or territory to carry out an investigation in the Islands and in that event the Administrator shall so far as he is able facilitate inquiries by the investigator so appointed.

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

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

16. (1) A person shall not obstruct or impede the Inspector, the Review Board, an assessor or any person acting under the authority of the Administrator in the exercise of any powers or duties under these Regulations.

(2) A person shall not without reasonable excuse (proof whereof shall lie on him) fail, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of

The Civil Aviation (Investigation of Accidents) Regulations, 1971
an Inspector or Review Board issued or made under
these Regulations.

Dated this 26th day of January, 1971.

A.C.E. LONG
Administrator.

Government Notice 20 of 1971.

Date of operation: 26th January, 1971.