
STATUTORY INSTRUMENTS

2018 No. 321

The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 and come into force on 9th April 2018.

Interpretation

2.—(1) In these Regulations—

“the Air Accidents Investigation Branch” means that part of the Department for Transport known by that name;

“Annex 13” means Annex 13 (Aircraft Accident and Incident Investigation) to the Chicago Convention⁽¹⁾ as that Annex has effect from time to time;

“Chief Inspector” means the Chief Inspector of Air Accidents appointed under regulation 9;

“Inspector” means a person appointed as an Inspector of Air Accidents under regulation 9;

“Investigating Inspector” means the investigator-in-charge and any other Inspector who is assisting the investigator-in-charge with a safety investigation by virtue of paragraph (6) of regulation 9;

“investigator-in-charge” means a person charged, on the basis of that person’s qualifications, with responsibility for the organisation, conduct and control of a safety investigation;

“Regulation 996/2010” means Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation⁽²⁾ and repealing [Directive 94/56/EC](#)⁽³⁾; and

“safety investigation” means a process conducted by the Air Accidents Investigation Branch for the purposes of accident and incident prevention, which includes the gathering and analysis of information, the drawing of conclusions (including the determination of causes and contributing factors) and, when appropriate, the making of safety recommendations.

(1) See definition of “the Chicago Convention” in section 105 of the Civil Aviation Act 1982. The latest edition of Annex 13, which is published by the International Civil Aviation Organization, is the 11th edition, which applied from 10th November 2016 (ISBN 978-92-9249-968-6).

(2) OJ No L 295, 12.11.2010, p35, amended by Regulation (EU) No 376/2014 of the European Parliament and of the Council (OJ No L 122, 24.4.2014, p18). Regulation 996/2010 has been extended to the European Economic Area by the Decision of the EEA Joint Committee No 95/2014 (OJ No L 310, 20.10.2014, p60). It applies to Switzerland by virtue of Decision No 2/2014 of the Joint European Union/Switzerland Air Transport Committee (OJ No L 373, 31.12.2014, p24).

(3) OJ No L 319, 12.12.1994, p14.

(2) In these Regulations the following words and expressions have the meanings given by Article 2 of Regulation 996/2010—

- “accident”;
- “incident”;
- “person involved”; and
- “serious incident”.

(3) In these Regulations “aircraft” has the same meaning as in Regulation 996/2010.

Meaning of “act of unlawful interference” and “victim”

3.—(1) For the purposes of paragraph 2 of Article 12 of Regulation 996/2010, “an act of unlawful interference” means any act which constitutes an offence under—

- (a) subsection (1) of section 1 (hijacking) of the Aviation Security Act 1982⁽⁴⁾ (“the 1982 Act”), but as if subsection (2) of that section (and the reference to subsection (2) in subsection (1)) was omitted;
- (b) subsection (1) or (2) of section 2 (destroying, damaging or endangering safety of aircraft) of the 1982 Act, but as if subsection (4) of that section (and the references to subsection (4) in subsections (1) and (2)) was omitted; or
- (c) subsection (1) or (3) of section 3 (other acts endangering or likely to endanger safety of aircraft) of the 1982 Act, but as if subsections (5) and (6) of that section (and the references to subsections (5) and (6) in subsection (1) and the reference to subsection (5) in subsection (3)) were omitted.

(2) For the purposes of paragraphs 4 and 5 of Article 15 of Regulation 996/2010, “victim” means any person who suffers a fatal injury or a serious injury in any of the circumstances described in sub-paragraph (1)(a) of Article 2 of that Regulation.

(3) In paragraph (2) “fatal injury” and “serious injury” have the meanings given by Article 2 of Regulation 996/2010.

Service of notices and other documents

4.—(1) Any notice or other document required or authorised by these Regulations to be served on any person may be served by—

- (a) delivering it to that person in person;
- (b) leaving it at that person’s proper address; or
- (c) sending it by post or by electronic means to that person’s proper address.

(2) In the case of a body corporate, any such notice or document may be served on a director of that body or on any other officer or employee of that body (“authorised person”) who is authorised to accept service of such notices or documents on its behalf.

(3) For the purposes of this regulation, “proper address” means—

- (a) in the case of a body corporate or its director or authorised person—
 - (i) the registered or principal office of that body; or
 - (ii) the email address of the secretary or clerk of that body, the director or the authorised person;
- (b) in any other case, a person’s last known address, which includes an email address.

(4) 1982 c.36.

Revocations

5. The following Regulations are revoked—
- (a) the Civil Aviation Act (Investigation of Accidents) Regulations 1996⁽⁵⁾;
 - (b) the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996⁽⁶⁾;
 - (c) the Civil Aviation (Investigation of Military Air Accidents at Civil Aerodromes) Regulations 2005⁽⁷⁾.

Amendment of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

6.—(1) Regulation 14 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013⁽⁸⁾ is amended as follows.

(2) In paragraph (6) of that regulation, omit sub-paragraph (d) and for sub-paragraph (g) substitute—

- “(g) Article 9 of Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation and repealing [Directive 94/56/EC](#).”

Safety investigation authority and accident investigation authority

7. The Air Accidents Investigation Branch continues to be designated as—
- (a) the safety investigation authority for the United Kingdom for the purposes of Article 4 of Regulation 996/2010; and
 - (b) the accident investigation authority for the United Kingdom for the purposes of Annex 13.

Objective of a safety investigation

8. The sole objective of a safety investigation which is undertaken pursuant to Regulation 996/2010, Annex 13 or these Regulations is the prevention of accidents and incidents, without the apportionment of blame or liability.

Inspectors of Air Accidents

9.—(1) For the purposes of carrying out safety investigations, the Secretary of State must appoint persons to work for the Air Accidents Investigation Branch as Inspectors of Air Accidents.

(2) The Secretary of State must appoint one such Inspector as the Chief Inspector of Air Accidents.

(3) The Chief Inspector must appoint another such Inspector as the Deputy Chief Inspector of Air Accidents.

(4) Any of the Chief Inspector’s powers and obligations under these Regulations may be exercised or discharged by the Deputy Chief Inspector where the Chief Inspector so directs.

(5) Where a safety investigation is required or permitted by Regulation 996/2010, Annex 13 or by these Regulations, the investigator-in-charge is the Chief Inspector or any other Inspector selected by the Chief Inspector for that purpose.

(5) [S.I. 1996/76](#).

(6) [S.I. 1996/2798](#), amended by the Police (Northern Ireland) Act 2000 ([2000 c.32](#)), section 78 and by [S.I. 1997/2971](#) and [S.I. 2004/1256](#).

(7) [S.I. 2005/2693](#).

(8) [S.I. 2013/1471](#), to which there are amendments not relevant to these Regulations.

(6) The Chief Inspector may determine that the investigator-in-charge shall be assisted by one or more Inspectors.

Power to investigate

10.—(1) Notwithstanding the obligations to investigate imposed by paragraphs 1 and 2 of Article 5 of Regulation 996/2010 and by Chapter 5 of Annex 13, the Chief Inspector may cause a safety investigation to be conducted in accordance with Regulation 996/2010, Annex 13 and these Regulations where—

- (a) an accident, a serious incident or any other incident occurs in or over the United Kingdom;
- (b) that accident, serious incident or incident involves any aircraft, including—
 - (i) an aircraft to which the obligation in paragraph 1 of Article 5 of Regulation 996/2010 does not apply; or
 - (ii) an aircraft engaged in military, customs, police or similar services; and
- (c) the Chief Inspector expects to draw safety lessons for civil aviation from the safety investigation.

(2) In this regulation “similar services” has the same meaning as in paragraph 3 of Article 3 of Regulation 996/2010.

Obligation to investigate accidents and serious incidents occurring outside the United Kingdom

11.—(1) Insofar as it is practicable to do so, the Chief Inspector must cause a safety investigation to be conducted in accordance with Annex 13 and these Regulations where—

- (a) an accident or serious incident occurs in or over a country or territory other than the United Kingdom or any other Contracting State;
- (b) the accident or serious incident involves an aircraft in respect of which the United Kingdom is—
 - (i) the State of Registry;
 - (ii) the State of the Operator;
 - (iii) the State of Design; or
 - (iv) the State of Manufacture; and
- (c) an investigation is not conducted by another State.

(2) In this regulation—

“Contracting State” means any State which is party to the Chicago Convention;

“investigation” (in sub-paragraph (c) of paragraph (1) only) means a process conducted, other than by the Air Accidents Investigation Branch, for the purposes of accident and incident prevention, which includes the gathering and analysis of information, the drawing of conclusions (including the determination of causes and contributing factors) and, when appropriate, the making of safety recommendations; and

“State of Registry”, “State of the Operator”, “State of Design” and “State of Manufacture” have the meanings given by Chapter 1 of Annex 13.

Additional provisions – Inspectors’ powers

12.—(1) The power conferred by subparagraph (f) (power to call and examine witnesses) of paragraph 2 of Article 11 of Regulation 996/2010 must be exercised by the service of a summons

signed by an Investigating Inspector and requiring any person (“witness”) to attend a witness interview at a time and place stated in the summons, in order to—

- (a) answer any question, or
- (b) produce any document, record, information or other evidence,

which is, in the opinion of that Inspector, relevant to the safety investigation.

(2) A witness must be allowed the expenses of attending a witness interview, payable by the Secretary of State.

13. An Investigating Inspector has the power to—

- (a) record a witness interview in any manner that the Investigating Inspector considers appropriate;
- (b) take a statement from a witness and require the witness to make and sign a declaration of truth in relation to that statement; and
- (c) retain any evidence which is produced by a witness or which the investigator-in-charge has access to or control over, by virtue of paragraph 2 of Article 11 of Regulation 996/2010, until the completion of the safety investigation.

14.—(1) Subject to paragraph (2), an Investigating Inspector may, on production of that Inspector’s authority to act as an Inspector, enter and inspect any land or premises (including any dwelling and any aircraft) where, in the opinion of the investigator-in-charge, such action is necessary for the purposes of the safety investigation.

(2) An Investigating Inspector may not enter and inspect any dwelling unless one of the following conditions is met—

- (a) the occupier of the dwelling has consented to the entry and inspection;
- (b) such entry and inspection has been authorised by a warrant issued by a justice, on an application made by an Investigating Inspector and supported by—
 - (i) in England and Wales, an information in writing;
 - (ii) in Scotland, evidence on oath; or
 - (iii) in Northern Ireland, a complaint on oath;
- (c) the investigator-in-charge is satisfied that access to the dwelling is required urgently and that the requirement to obtain consent or a warrant would undermine the safety investigation.

(3) A justice may issue a warrant if the justice is satisfied that there are reasonable grounds for entering and inspecting the dwelling for the purposes of the safety investigation and that at least one of the following conditions is met—

- (a) entry to the dwelling has been, or is likely to be, refused and notice of the intention to apply for a warrant has been served on the occupier;
- (b) asking for consent to enter and inspect the dwelling would undermine the safety investigation;
- (c) entry to the dwelling is required urgently;
- (d) the dwelling is unoccupied or the occupier is temporarily absent.

(4) A warrant may authorise a maximum of two Investigating Inspectors to enter and inspect a dwelling.

(5) A warrant is valid for one month beginning on the date of its issue.

(6) Where an Investigating Inspector exercises the power conferred by paragraph (1), that Inspector may—

- (a) search the land or premises for any item;
 - (b) examine anything that is on the land or premises;
 - (c) require any person to produce any document or record that is in that person's possession or control;
 - (d) seize, detain or remove any item that is on the land or premises and any document or record that has been produced in accordance with sub-paragraph (c); and
 - (e) take copies of or extracts from any document or record found on the land or premises.
- (7) Any item, document or record seized by an Investigating Inspector may be retained until the completion of the safety investigation.
- (8) In this regulation—
- “dwelling” means any premises wholly or mainly used as a place of residence or abode (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling); and
- “a justice” means—
- (a) in England and Wales, a justice of the peace;
 - (b) in Scotland, a sheriff or a summary sheriff; and
 - (c) in Northern Ireland, a lay magistrate.

Release of evidence to owner

15.—(1) This regulation applies where an aircraft, its contents or wreckage (“property”) is held by the Air Accidents Investigation Branch in a hangar, or in any other facility which is being used by the Branch, for the purposes of a safety investigation.

(2) Subject to paragraph (5), where any such property is no longer required for the purposes of the safety investigation the Chief Inspector must inform the owner of the property, by serving a notice in writing, that it will be released to the owner at the place and date specified in the notice and in accordance with any other arrangements that are specified in the notice.

(3) An owner on whom such a notice is served must collect the property in accordance with the arrangements specified in the notice (or in accordance with any alternative arrangements that the owner agrees in writing with the Chief Inspector), failing which—

- (a) the Chief Inspector may make arrangements for the destruction or disposal of the property; and
- (b) the reasonable costs of such destruction or disposal will be recoverable from the owner as a debt due to the Secretary of State.

(4) A notice served pursuant to paragraph (2)—

- (a) must not specify a date for collection of the property earlier than one month beginning with the date on which the notice was served; and
- (b) must include a warning that a failure by the owner to collect the property on the date specified in the notice (or such other date that the owner agrees in writing with the Chief Inspector) will entitle the Chief Inspector to make arrangements for the destruction or disposal of the property and that the reasonable costs of such destruction or disposal will be recoverable from the owner as a debt due to the Secretary of State.

(5) Where any property referred to in paragraph (1) is no longer required for the purposes of the safety investigation and the Chief Inspector is satisfied that a person, body or authority (other than the owner) is entitled (under statutory or common law powers that apply in any part of the United Kingdom) to collect that property for the purposes of another investigation and has confirmed their intention to do so—

- (a) paragraph (2) does not apply to that property; and
 - (b) the Chief Inspector must release it to that person, body or authority and inform the owner of the property, by serving a notice in writing, that it has been so released.
- (6) In this regulation “owner”, in relation to an aircraft which is registered, means the registered owner of the aircraft.

Notice of safety investigation report

16.—(1) Where the investigator-in-charge considers that a safety investigation report could adversely affect the reputation of any person (“the person concerned”), the final safety investigation report must not be published until the investigator-in-charge has—

- (a) served a notice on the person concerned or, where that person is deceased, the person who appears to the investigator-in-charge to best represent the interests of the person concerned in the matter; and
 - (b) made such changes as the investigator-in-charge thinks fit, following the consideration by that investigator of any representations that have been made pursuant to paragraph (2)(b).
- (2) The notice referred to in paragraph (1)(a) must—
- (a) include particulars of any proposed analysis of facts and conclusions as to the circumstances and causes of the relevant accident or incident which could affect the person concerned; and
 - (b) inform the person on whom it is served that written representations regarding that proposed analysis may be made to the investigator-in-charge by or on behalf of that person within 28 days, beginning with the date on which the notice was served, or within such longer period as the Chief Inspector may allow.

Pre-publication copies of the final safety investigation report

17. Before the publication of the final safety investigation report, the Chief Inspector must provide a copy of it to the Secretary of State and must also serve a copy of it on any person on whom a notice was served pursuant to paragraph (1)(a) of regulation 16.

Reopening of safety investigation

18.—(1) Subject to paragraph (3), where, following publication of a final safety investigation report relating to an accident or serious incident, evidence has become available which, in the Chief Inspector’s opinion, is new and significant, the Chief Inspector must cause the safety investigation to be reopened.

(2) Subject to paragraph (3), following publication of a final safety investigation report relating to an accident or serious incident, the Chief Inspector may cause the safety investigation to be reopened for any other reason where the Chief Inspector considers it appropriate to do so.

(3) The Chief Inspector must not reopen a safety investigation into an accident or serious incident in respect of which the task of conducting the safety investigation has been delegated to the Air Accidents Investigation Branch, pursuant to paragraph 2 of Article 6 of Regulation 996/2010 or paragraph 5.1, 5.1.1 or 5.1.2 of Annex 13, without first obtaining the consent of the head of the investigation authority which so delegated that task.

Amendments to the Civil Aviation Act 1982

19. In section 75 of the Civil Aviation Act 1982⁽⁹⁾ (investigation of accidents), omit subsection (1A) (power to make provision for the purpose of implementing Council [Directive 94/56/EC](#)⁽¹⁰⁾).

⁽⁹⁾ 1982 c.16. Subsection (1A) was inserted by [S.I. 1996/76](#), which is revoked by these regulations (see regulation 3).

⁽¹⁰⁾ OJ No L 319, 12.12.1994, p14, repealed by Regulation 996/2010, Article 25.