

# **TRANSPORT ACCIDENT INVESTIGATION AMENDMENT BILL**

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## EXPLANATORY NOTE

### GENERAL POLICY STATEMENT

The purpose of this Bill is to amend the Transport Accident Investigation Commission Act 1990 to:

- align New Zealand domestic legislation with the International Civil Aviation Organisation Convention Annex 13 which contains recommended standards on the disclosure of records obtained during an aviation accident investigation;
- provide legislation that strikes a balance in favour of aviation accident safety investigation which does not attribute blame, while recognising that certain serious conduct warrants culpability for unlawful conduct; and
- allow the bringing into force of Civil Aviation rules making mandatory the installation and use of cockpit voice recorders (CVRs) in most commercial passenger aircraft.

The Bill provides that certain information (the future supply of which is at risk if it is disclosed) may only be disclosed for the purpose of a safety investigation into an aviation accident or incident and is not admissible in any proceedings; provides that certain records may only be disclosed for the purpose of a safety investigation into an aviation accident or incident or by order of the High Court; allows for the High Court to order disclosure of those records in the case of certain serious criminal charges and civil proceedings; allows those records to be admissible in court proceedings only if obtained under a disclosure order.

Internationally, aviation accident records are used for the purpose of facilitating safety investigations, which establish the causes and contributing factors of the accident, rather than attribute blame. The Chicago Convention, to which New Zealand is a signatory, recognises that information from CVRs and other accident records may be used inappropriately for subsequent civil and criminal proceedings and that, if that happens, important safety information may, in the future, no longer be openly disclosed to investigators. This would seriously affect aviation safety as lack of access to such information would impede the safety investigative process.

The Bill implements the provisions of paragraph 5.12 of Annex 13 to the Chicago Convention. Paragraph 5.12 covers the use of information gathered in the safety investigation of an aviation accident or incident. In line with paragraph

5.12, the Bill strikes a balance in favour of aviation accident safety investigation which does not attribute blame, while recognising that certain serious conduct warrants culpability for unlawful conduct.

Certain records generated during the course of an accident safety investigation are given complete protection. These records are: statements and submissions made to a safety investigator during an investigation, recordings and transcripts generated after an accident, investigators' notes and opinions, and any information that is provided in confidence by a safety investigator to another person.

Certain records may be disclosed for civil and criminal proceedings if the High Court determines. These records are communication between the flight deck and air traffic control or other person involved in the operation of the aircraft; a cockpit voice recorder or a transcript of it, a cockpit video recording or a transcript of it; and information about an identifiable person that is generated in the course of an accident investigation. Records held by the New Zealand Defence Force or a visiting force are excluded.

In the case of criminal proceedings, a disclosure order may only be sought in relation to a prosecution for serious offences against the Crimes Act 1961, the Aviation Crimes Act 1972, and the Crimes (Internationally Protected Persons and Hostages) Act 1980 and offences against the Armed Forces Discipline Act 1971.

The High Court must determine whether to order disclosure of a record. To order disclosure for civil proceedings the Court must determine, on the balance of probabilities, that the interests of justice outweigh the adverse domestic and international impact the disclosure may have on the investigation or on any future aviation accident investigation.

To order disclosure for criminal proceedings, the Court must determine, on the balance of probabilities, that there are reasonable grounds to believe the offence has been committed; and that the applicant for the disclosure order can not satisfactorily undertake an investigation of the offence without the evidence reasonably believed to be contained in the record being sought. This test is high, in line with the underlying philosophy of the Bill that the records are primarily for use in a safety investigation that does not attribute blame, rather than for prosecution purposes.

The Bill responds to a recommendation to the Minister of Transport from the Transport Accident Investigation Commission (TAIC) in July 1997 that other provisions of Paragraph 5.12 of Annex 13, for both CVR and other evidence obtained by TAIC, must be written into New Zealand domestic law; that retention and use of existing CVRs must be made mandatory as a matter of urgency; and that April 1999 should be regarded as a deadline for installation of CVRs in aircraft. The Commission's recommendation arose from its investigation into the Ansett Dash 8 crash in 1995.

The Bill responds to the view of the Transport Select Committee on the use of CVRs and transcripts that primary legislation giving effect to paragraph 5.12 was needed. This issue arose during the Committee's consideration of the Civil Aviation Amendment Bill 1996.

The Bill is consistent with recommendations of the Regulations Review Committee made to the House in June 1997 that primary legislation on the use of information from CVRs should be in place before Civil Aviation Rules requiring mandatory fitment of CVRs in certain aircraft are brought into force. These rules were signed by the Minister of Transport in February 1997. The rules are suspended until 1 April 1999 at the earliest to give operators sufficient time to fit the CVRs and to allow for the development and enactment of primary legislation on the use of information obtained from CVRs. The rules will be brought into force by *Gazette* notice at the time the statutory provisions are enacted.

The Title of the principal Act is amended to recognise that the new provisions go beyond the establishment and function of the Commission.

A provision that goes beyond the Privacy Act 1993 provides that information covered by the Bill (other than information provided by an investigator to another person in confidence) may be disclosed to the supplier of that information in response to a request made in accordance with principle 6 of the Privacy Act 1993. The consent of all the people recorded on a cockpit voice or video recording or a transcript of one or a communication between the flight deck and others involved in the operation of the aircraft is required. This will ensure the continued provision of good information vital for safety investigation.

Other provisions are that the accident report will not be admissible in any court proceedings except at a coroner's inquest or an application for a review of an investigators' decision; Transport Accident Investigation Commission investigators cannot be compelled to give opinion evidence in court; and offences are created for unlawful disclosure of records or unlawful publication of a report of an application for a disclosure order.

The Bill provides for the requirement for TAIC to investigate accidents involving foreign aircraft to be made discretionary. This will bring the regime for foreign aircraft accident investigation in line with that for domestic aircraft accidents.

#### CLAUSE BY CLAUSE ANALYSIS

*Clause 1* relates to the Short Title and commencement. The Bill will come into force on 1 July 1999.

#### PART 1

##### AMENDMENTS TO PRINCIPAL ACT

*Clause 2* amends the Title of the principal Act. The Transport Accident Investigation Act 1990 (as the principal Act will be known when this Bill is passed) will provide for the functions, duties, and powers of the Transport Accident Investigation Commission and also regulate the disclosure and use of certain information obtained during the investigation of an aviation accident or incident.

*Clause 3* amends the Short Title of the principal Act.

*Clause 4* inserts a new Part heading above section 2 of the principal Act. The principal Act is divided into 3 Parts by this Bill. Part 1 contains preliminary provisions. Part 2 relates to the Transport Accident Investigation Commission. Part 3 relates to the disclosure and use of aviation accident and incident investigation information.

*Clause 5* inserts the new Part 2 heading above section 3 of the principal Act.

*Clause 6* amends section 13 (1) of the principal Act by repealing paragraph (a). The effect of this amendment is that it will no longer be mandatory for the Transport Accident Investigation Commission to investigate an aviation accident involving a foreign aircraft.

*Clause 7* inserts a new *Part 3* into the principal Act. *Part 3* relates to the disclosure and use of aviation accident and incident investigation information.

*New section 14A* defines certain terms for the purposes of *Part 3*. In particular, an "investigation" is defined as an investigation into an aviation accident or incident—

- Under section 13 of the principal Act:
- Under section 72B (2) (d) of the Civil Aviation Act 1990 if the purpose of the investigation is to determine the circumstances and cause of the accident or

incident with a view to avoiding similar occurrences in the future, rather than to ascribe blame to any person.

*New section 14B* provides that certain investigation records can be disclosed only by an investigator or other person for the purposes of the investigation to which they relate. These records are not admissible as evidence in any proceeding (as that term is defined in *section 14A*). The records are specified in *subsection (2)*, and include statements made to an investigator, recordings generated in the course of an investigation, investigator's notes and opinions, and information provided in confidence by an investigator to another person.

*Subsection (3)* provides that, despite the restrictions on disclosure contained in this section, a person who supplied the statement or submission can disclose that information to any person.

*New section 14c* provides that certain other records can be disclosed only—

- By an investigator or other person for the purposes of the investigation;
- By order of the High Court.

The records are specified in *subsection (2)*, and include recordings or transcripts of communications between persons involved in the operation of an aircraft, cockpit voice and video recordings, and documents or records held by an investigator that contain information about any identifiable natural person that is supplied to the investigator in the course of the investigation.

*Subsection (3)* provides that for the purposes of this section an air traffic controller or other person on the ground who communicates with the crew of the aircraft is involved in the operation of the aircraft.

*Subsection (4)* provides that *subsection (1)* does not apply to records held by the New Zealand Defence Force or a visiting force.

*Subsection (5)* provides that, despite the restrictions on disclosure contained in this section, a person who is recorded, or who supplied information, is not prevented from making a statement to any person about the accident or incident.

*New section 14D* provides for an application to be made to the High Court for the disclosure of a record specified in *section 14c* for the purposes of certain civil proceedings. The civil proceedings to which this section applies are proceedings where the amount of damages claimed exceeds the maximum civil jurisdiction of the District Courts. The section does not apply to any proceeding under the Employment Contracts Act 1991.

The High Court may order the disclosure of a record under this section if the Court determines on the balance of probabilities that the interests of justice in the disclosure of the record outweigh the adverse domestic and international impact the disclosure may have on the investigation to which the record relates or any future investigation.

*New section 14E* provides that a prosecuting authority (as that term is defined in *section 14A*) may apply to the High Court for the disclosure of a record specified in *section 14c* in relation to a prosecution or investigation for certain criminal offences specified in *subsection (1)*. The Court may order the disclosure of the record if the Court determines on the balance of probabilities that there are reasonable grounds to believe the offence has been committed and that the applicant cannot satisfactorily undertake an investigation of the offence without the record.

*New section 14E* also provides that a person who is charged with one of the specified criminal offences may apply for the disclosure of a record specified in *section 14c*. The Court may order the disclosure of the record if the Court determines on the balance of probabilities that the preparation of the applicant's defence to the charge would be prejudiced without the evidence contained in the record.

*New section 14F* provides that for the purpose of determining whether a record should be disclosed the Court may order any person who has possession of it to produce it to the Court.

*New section 14G* provides restrictions on the publication of a report of an application for a disclosure order.

*New section 14H* provides for certain other matters relating to a record that is disclosed under *section 14D* or *section 14E*:

- The disclosure order relates only to the parts of the record that are relevant to the purpose for which disclosure was ordered:
- The record must only be used for the purpose for which disclosure was ordered:
- The record must be returned to the person who produced it when it is no longer needed:
- No record disclosed may be broadcast or published in the media.

*New section 14I* provides that certain actions do not constitute disclosure. They are—

- The inclusion of the record in any findings, recommendations, or report made by the Transport Accident Investigation Commission or the Civil Aviation Authority:
- The return of the recording to its owner with the consent of all the individuals recorded on it.

*New section 14J* provides that it is an offence to disclose a record in breach of *section 14B (1)* or *section 14c (1)*.

*New section 14K* provides that it is an offence to contravene *section 14G*.

*New section 14L* provides that a record specified in *section 14c (2)* is admissible in proceedings only if it was disclosed in accordance with a disclosure order.

*New section 14M* provides that no investigation findings, recommendations, or report of the Transport Accident Investigation Commission or the Civil Aviation Authority are admissible in any proceedings except a Coroner's inquest or an application for judicial review.

*New section 14N* provides that no person engaged in an investigation by the Commission is compellable to give evidence in any proceedings to which the Commission is not a party as to—

- That person's opinion concerning any aspect of an investigation:
- A matter included in any findings, recommendations, or report made following an investigation.

*New section 14P* provides that a record specified in *section 14B* or *section 14c* can be disclosed to the supplier of that record. For the purposes of this section, the supplier of the record is the person who made a statement or, as the case may, the person who is recorded on a recording or who gave the information contained in a record.

This section is intended to make it clear that, with one exception, the restrictions in *section 14B* and *section 14c* do not override the right of a person to have access to personal information about himself or herself. The exception is that a recording of a communication between persons involved in the operation of an aircraft or a cockpit voice or video recording cannot be disclosed under the Privacy Act 1993 without the prior consent of any other person who is recorded on it.

*Clause 8* is a savings provision. It provides that the Bill does not apply to any aviation accident or incident or any proceedings that occurred or commenced before the date on which this Bill comes into force.

*Clause 9* repeals sections 15 and 16 of the principal Act. These provisions are no longer required.

PART 2

AMENDMENT TO CIVIL AVIATION ACT 1990

*Clause 10* amends the Civil Aviation Act 1990. The amendment provides that section 72 of that Act (which relates to evidence of air traffic services provider) is subject to *Part 3* of the Transport Accident Investigation Act 1990 (as inserted by this Bill).

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*Hon Maurice Williamson*

## TRANSPORT ACCIDENT INVESTIGATION AMENDMENT

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### ANALYSIS

Title	14E. Disclosure of record in criminal proceedings	
1. Short Title and commencement	14F. Court may order record to be produced	
PART 1		
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2. Title of principal Act amended	14G. Restriction on publication of reports of proceedings	
3. Short Title of principal Act amended	14H. Further provisions relating to disclosure of record	
4. New heading inserted	14I. Certain actions do not constitute disclosure	
PART 1		
PRELIMINARY PROVISIONS		
5. New heading inserted	14J. Offences relating to disclosure of records	
PART 2		
TRANSPORT ACCIDENT INVESTIGATION COMMISSION		
6. Accidents to be investigated	14K. Offences relating to hearings of applications for disclosure of records	
7. New Part 3 inserted	14L. Admissibility of record specified in section 14C (2)	
PART 3		
DISCLOSURE AND USE OF AVIATION ACCIDENT AND INCIDENT INVESTIGATION INFORMATION		
14A. Interpretation	14M. Admissibility of aviation accident or incident findings, recommendations, or report	
14B. Certain records relating to aviation accident or incident not to be admitted in evidence	14N. Commission investigators not compellable to give opinion evidence in certain proceedings	
14C. Certain records relating to aviation accident or incident may be disclosed in proceedings by order of High Court	14O. No search warrant may be issued for record specified in section 14B or section 14C	
14D. Disclosure of record in civil proceedings	14P. Disclosure of personal information under Privacy Act 1993	
	8. Savings provision	
	9. Sections 15 and 16 repealed	
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	AMENDMENT TO CIVIL AVIATION ACT 1990	
	10. Civil Aviation Act 1990 amended	

*Transport Accident Investigation  
Amendment*

A BILL INTITULED

**An Act to amend the Transport Accident Investigation  
Commission Act 1990**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Transport Accident Investigation Amendment Act 1998, and is part of the Act known before the commencement of this Act as the Transport Accident Investigation Commission Act 1990\* (“the principal Act”).

(2) This Act comes into force on 1 July 1999.

PART 1

AMENDMENTS TO PRINCIPAL ACT

**2. Title of principal Act amended**—The principal Act is amended by repealing the Title, and substituting the following Title:

“An Act—

“(a) To establish the Transport Accident Investigation Commission, and to define its functions, duties, and powers; and

“(b) To regulate the disclosure and use of information obtained during an aviation accident or incident investigation and to minimise the adverse impact of disclosure on that investigation and future investigations”.

**3. Short Title of principal Act amended**—(1) The principal Act may after the commencement of this Act be cited as the Transport Accident Investigation Act 1990.

(2) The Short Title of the principal Act is consequentially amended by omitting the word “Commission”.

**4. New heading inserted**—The principal Act is amended by inserting, immediately before section 2, the following heading:

\*1990, No. 99

Amendments: 1992, No. 112; 1996, No. 92; 1998, No. 63



“PART 1

“PRELIMINARY PROVISIONS”.

5     **5. New heading inserted**—The principal Act is amended by inserting, immediately before section 3, the following heading:

“PART 2

“TRANSPORT ACCIDENT INVESTIGATION COMMISSION”.

**6. Accidents to be investigated**—Section 13 (1) of the principal Act is amended by repealing paragraph (a).

10     **7. New Part 3 inserted**—The principal Act is amended by inserting, after section 14, the following Part:

“PART 3

“DISCLOSURE AND USE OF AVIATION ACCIDENT AND INCIDENT  
INVESTIGATION INFORMATION

15     “14A. **Interpretation**—For the purposes of this Part,—

    “‘Investigation’ means an investigation into an aviation accident or incident—

        “(a) Under section 13; or

20          “(b) Under section 72B (2) (d) of the Civil Aviation Act 1990 if the purpose of the investigation is to determine the circumstances and cause of the accident or incident with a view to avoiding similar occurrences in the future, rather than to ascribe blame to any person:

25     “‘Investigator’,—

        “(a) In relation to an investigation into an aviation accident or incident under section 13, means the Commission; and

30          “(b) In relation to an investigation described in paragraph (b) of the definition of the term “investigation”, means the Civil Aviation Authority:

    “‘Proceeding’ means—

35          “(a) Proceedings in a court, including a court of inquiry under section 200 of the Armed Forces Discipline Act 1971; and

        “(b) Proceedings before any Coroner; and

        “(c) An arbitration under the Arbitration Act 1996; and

        “(d) Court-martial proceedings:

“‘Prosecuting authority’ includes the police, the Civil Aviation Authority, and a prosecutor in relation to a court-martial.

“**14B. Certain records relating to aviation accident or incident not to be admitted in evidence**—(1) A record specified in **subsection (2)**— 5

“(a) May only be disclosed by an investigator or other person for the purposes of the investigation into the accident or incident to which the record relates; and

“(b) Is not admissible in any proceeding. 10

“(2) A record referred to in **subsection (1)** is—

“(a) A statement or submission made to an investigator in the course of an investigation; or

“(b) A recording or transcript of a recording, generated after the accident or incident, in the course of an investigation; or 15

“(c) Any investigator’s note or opinion, generated after the accident or incident, in the course of an investigation; or

“(d) Information relating to an investigation that is provided in confidence by an investigator to any other person (unless that information is a record specified in **section 14c (2)**). 20

“(3) Despite **subsection (1)**, a person who made a statement or submission referred to in **subsection (2) (a)** or who supplied any statement contained in a record referred to in **paragraph (b) or paragraph (c) of subsection (2)** may disclose that information to any person. 25

“**14C. Certain records relating to aviation accident or incident may be disclosed in proceedings by order of High Court**—(1) A record specified in **subsection (2)** may only be disclosed— 30

“(a) By an investigator or other person for the purposes of the investigation into the accident or incident to which the record relates; or 35

“(b) By order of the High Court under **section 14D or section 14E**.

“(2) A record referred to in **subsection (1)** is—

“(a) A recording or a transcript of a recording of a communication originating from, or received on or in, the flight deck of an aircraft between persons involved in the operation of the aircraft; or 40

“(b) A cockpit voice recording or a transcript of a cockpit voice recording; or

“(c) A cockpit video recording or a transcript of a cockpit video recording; or

5 “(d) A document or record held by an investigator that contains information about an identifiable natural person that was supplied to an investigator in the course of an investigation (not being information included in any statement, submission, recording, transcript, or note referred to in any of **paragraphs (a), (b), or (c) of section 14b (2)**).

10 “(3) For the purposes of this section, an air traffic controller or any other person on the ground who communicates with a member of the crew of the aircraft while the aircraft is being operated is involved in the operation of the aircraft.

15 “(4) Nothing in **subsection (1)** applies to a record specified in **subsection (2)** if the record is held by the New Zealand Defence Force or a visiting force.

20 “(5) Nothing in **subsection (1)** prevents a person who is recorded on a record referred to in any of **paragraphs (a), (b), or (c) of subsection (2)**, or who supplied information contained in a record referred to in **subsection (2) (d)**, from making a statement to any person about the accident or incident.

25 “14D. **Disclosure of record in civil proceedings—**  
(1) This section applies to any civil proceeding if the amount of the damages claimed exceeds the amount specified from time to time as the maximum civil jurisdiction of District Courts under the District Courts Act 1947; but does not apply to a proceeding under the Employment Contracts Act 1991.

30 “(2) A party to civil proceedings to which this section applies may apply to the High Court for the disclosure of a record specified in **section 14c (2)**.

“(3) Subject to this section, the application must be made and dealt with in accordance with the rules of court applicable to interlocutory applications.

35 “(4) The applicant must notify the person who has possession of the record and any other affected person of the making of the application.

40 “(5) A person who is served with a notice of an application, and any other person who satisfies the Court that he or she has a legitimate interest in the application, may appear before the Court and be heard in respect of the application.

“(6) Only the Judge or Master, officers of the Court, parties to the proceedings and their counsel, witnesses, and any person

referred to in **subsection (5)** are permitted to be present at the hearing of an application under this section.

“(7) The Judge or Master may exclude any witness or person referred in **subsection (5)** from any part of the hearing of the application.

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“(8) The Court may order the disclosure of a record under this section if the Court determines, on the balance of probabilities, that the interests of justice in the disclosure of the record outweigh the adverse domestic and international impact the disclosure may have on the investigation to which the record relates or any future investigation into an aviation accident or aviation incident.

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“14E. **Disclosure of record in criminal proceedings—**

(1) A prosecuting authority may apply to the High Court for the disclosure of a record specified in **section 14c (2)** in relation to a prosecution or investigation for—

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“(a) Any offence against the Crimes Act 1961 or the Aviation Crimes Act 1972 or the Crimes (Internationally Protected Persons and Hostages) Act 1980 that is punishable by imprisonment for a term of 10 years or more; or

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“(b) An offence against section 190, 296, 297, 300, or 303 of the Crimes Act 1961; or

“(c) An offence against section 11 of the Aviation Crimes Act 1972; or

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“(d) An offence against the Armed Forces Discipline Act 1971.

“(2) A person who is charged with an offence referred to in **subsection (1)** may apply to the High Court for the disclosure of a record specified in **section 14c (2)**.

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“(3) An applicant under **subsection (1)** or **subsection (2)** is not required to notify the person who has possession of the record or any other interested party of the making of the application.

“(4) The Court may order the disclosure of a record to a prosecuting authority who applies under **subsection (1)** if the Court determines, on the balance of probabilities, that—

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“(a) There are reasonable grounds to believe the offence to which the application relates has been committed; and

“(b) The applicant can not satisfactorily undertake an investigation of the offence or offences to which the application relates without the evidence reasonably believed to be contained in the record sought.

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5 “(5) The Court may order the disclosure of a record to a person who applies under **subsection (2)**, if the Court determines, on the balance of probabilities, that the preparation of the applicant’s defence to the charge would be prejudiced without the evidence reasonably believed to be contained in the record sought.

10 “(6) Only the Judge, officers of the Court, the prosecuting authority, the defendant and the defendant’s counsel, witnesses, and the person who has possession of the record are permitted to be present at the hearing of an application under this section.

“(7) The Judge may exclude any witness from any part of the hearing of the application.

15 “**14F. Court may order record to be produced**—(1) For the purpose of determining whether a record should be disclosed under **section 14D** or **section 14E**, the Court may order any person who has the possession of the record to produce it to the Court.

20 “(2) Subject to **section 14H**, the Court may deal with the record as it thinks fit.

“**14G. Restriction on publication of reports of proceedings**—(1) No person may publish any report of an application under **section 14D** or **section 14E** without the leave of the Court.

25 “(2) Despite **subsection (1)**, a person may publish—

“(a) The names and addresses of the parties:

“(b) The name of the presiding Judge or Master:

“(c) The order made by the Court.

30 “**14H. Further provisions relating to disclosure of record**—(1) If the High Court makes a disclosure order under **section 14D** or **section 14E**, the order relates only to the parts of the record that are relevant to the purpose for which the disclosure was ordered, and any part of the record that is not relevant must not be disclosed.

35 “(2) The record must only be used for the purpose for which the disclosure was ordered, and no person is permitted to copy the record or make notes from the record without the leave of the Court.

40 “(3) The record must be returned to the person who produced the record to the Court when the record is no longer needed for the purpose for which the disclosure was ordered.

“(4) No record that is ordered to be disclosed under **section 14D** or **section 14E** may be broadcast or published in the media.

“14i. **Certain actions do not constitute disclosure**—The following actions do not constitute disclosure of a record referred to in **section 14b or section 14c**:

“(a) The inclusion of the whole or part of a record in any findings or recommendations published, or report made, by the Commission under this Act or the Civil Aviation Authority under section 72B (2) (d) of the Civil Aviation Act 1990 after an investigation: 5

“(b) The return of a recording to its owner with the consent of all the individuals recorded on it. 10

“14j. **Offences relating to disclosure of records**—(1) Every person commits an offence who discloses a record specified in **section 14b (2) or section 14c (2)** in breach of **section 14b (1) or section 14c (1)**.

“(2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000. 15

“14k. **Offences relating to hearings of applications for disclosure of records**—(1) Every person commits an offence who contravenes **section 14g**. 20

“(2) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000.

“14l. **Admissibility of record specified in section 14c (2)**—(1) A record specified in **section 14c (2)** is admissible in proceedings only if it was disclosed in accordance with an order made under **section 14d or section 14e**. 25

“(2) Nothing in **subsection (1)** renders admissible any record that is inadmissible under any other enactment or rule of law.

“14m. **Admissibility of aviation accident or incident findings, recommendations, or report**—No findings or recommendations published, or report made after an investigation by the Commission under this Act or the Civil Aviation Authority under section 72B (2) (d) of the Civil Aviation Act 1990 are admissible as evidence in any proceedings except— 30

“(a) A Coroner’s inquest; or

“(b) An application for review of a decision of an investigator. 35

“14n. **Commission investigators not compellable to give opinion evidence in certain proceedings**—No person engaged in an investigation by the Commission is compellable 40

to give evidence in any proceedings to which the Commission is not a party as to—

“(a) That person’s opinion concerning any aspect of an investigation; or

5 “(b) Any matter included in any findings, recommendations, or report made following an investigation.

“14O. **No search warrant may be issued for record specified in section 14B or section 14C**—No Judge, Justice, Community Magistrate, or Registrar may issue a search  
10 warrant in respect of a record specified in **section 14B (2)** or **section 14C (2)**.

“14P. **Disclosure of personal information under Privacy Act 1993**—(1) A record specified in any of **paragraphs (a), (b), and (c)** of **section 14B (2)** or **section 14C (2)** may be disclosed to the  
15 supplier of that record pursuant to a request made in accordance with principle 6 of the Privacy Act 1993.

“(2) For the purposes of **subsection (1)**, a person is the supplier of a record if the person—

20 “(a) Made a statement or submission referred to in **paragraph (a) of section 14B (2)**; or

“(b) Is recorded on a recording, note, opinion, or transcript referred to in **paragraph (b) or paragraph (c) of section 14B (2)** or **paragraphs (a) to (c) of section 14C (2)**; or

25 “(c) Gave the information contained in a record referred to in **section 14C (2) (d)**.

“(3) A record referred to in any of **paragraphs (a), (b), or (c) of section 14C (2)** must not be disclosed under the Privacy Act 1993 to a person recorded on it without the prior consent of any other person who is recorded on the record.

30 “(4) Nothing in this section limits sections 27 to 29 of the Privacy Act 1993.”

**8. Savings provision**—Nothing in this Act applies to—

(a) An aviation accident or aviation incident that occurred before the date on which this Act comes into force; or

35 (b) Any proceedings commenced before the date on which this Act comes into force.

**9. Sections 15 and 16 repealed**—Sections 15 and 16 of the principal Act are repealed.

*Transport Accident Investigation  
Amendment*

PART 2

AMENDMENT TO CIVIL AVIATION ACT 1990

**10. Civil Aviation Act 1990 amended**—Section 72 of the Civil Aviation Act 1990 is amended by adding the following subsection:

“(4) This section is subject to **Part 3** of the **Transport Accident Investigation Act 1990**.”

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