



**THE CIVIL AVIATION (INVESTIGATION OF ACCIDENTS)
REGULATIONS 1953**

C. W. M. NORRIE, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington, this 11th day of November
1953

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 8 of the Civil Aviation Act 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. These regulations may be cited as the Civil Aviation (Investigation of Accidents) Regulations 1953, and shall come into force on the day after the date of their notification in the *Gazette*.

Interpretation and Application of Regulations

2. In these regulations, unless the context otherwise requires,—
- “Accident” includes any fortuitous or unexpected event connected with an aircraft by which the safety of the aircraft or of any person is threatened:
 - “Accredited representative” means a person designated by a contracting State for the purpose of participating in an accident inquiry in another contracting State:
 - “The Act” means the Civil Aviation Act 1948:
 - “Air traffic” means aircraft in flight or operating on the manoeuvring area of an aerodrome:
 - “Authorized person” means any person authorized by the Minister for any purpose under these regulations:
 - “Contracting State” means a country which is a party to the Convention:
 - “Convention” means the Convention on International Civil Aviation, signed on behalf of the Government of New Zealand in Chicago on the 7th day of December 1945; and includes the international standards and recommended practices and procedures adopted by the International Civil Aviation Organization, in pursuance of Article 37 of the Convention:.

“Department” means the Air Department:

“Inspector” means an Inspector of Accidents appointed under these regulations:

“Minister” means the Minister in charge of civil aviation:

“New Zealand” includes the Cook Islands, Western Samoa, the Tokelau Islands, and any other territory subject to the protection, trusteeship, or authority of the Government of New Zealand:

“New Zealand aircraft” means an aircraft registered in New Zealand:

“Owner”, in relation to an aircraft, means the registered owner, and if the aircraft is not so registered, means the proprietor:

“Pilot in command” means the pilot responsible for the operation and safety of the aircraft in flight:

“State of registry” means the State where an aircraft is registered:

3. (1) These regulations apply—

(a) To all New Zealand aircraft; and

(b) To all aircraft in or over New Zealand territory, whether or not they are registered in New Zealand.

(2) Nothing in these regulations shall apply to any aircraft used for the purposes of Her Majesty’s naval, military, or air forces.

4. The provisions of these regulations are in addition to and not in derogation of the provisions of any other enactment, and nothing in these regulations shall derogate from any provision of the Shipping and Seamen Act 1952, the Air Services Licensing Act 1951, the International Air Services Act 1947, or any other Act, or of any order or regulations made thereunder.

Notification of Accidents

5. (1) An accident in which an aircraft is involved shall be notified in accordance with the provisions of regulation 6 hereof if, between the time when any person boards the aircraft with the intention of engaging in air traffic and the time when 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.

(2) For the purposes of this regulation the term “substantial damage” means any damage which necessitates the replacement or extensive repair of any major component of an aircraft.

6. (1) Where an accident occurs to a New Zealand aircraft or to any other aircraft in New Zealand territory of which notification is required to be given under regulation 5 hereof, the pilot in command of the aircraft involved at the time of the accident, or if he is killed or incapacitated, the owner, operator, hirer, or other person on whose behalf he was in command of the aircraft, as the case may be, shall send notice thereof to the Department—

(a) By telegram immediately after the accident; and

(b) By written report as soon as practicable thereafter,—

and if the accident has caused injury to any person or damage to third party property, shall also notify forthwith the local police authorities of the accident and of the place where it occurred.

(2) The written report referred to in subclause (1) of this regulation shall state, as far as possible,—

- (a) The type, 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 pilot in command of the aircraft:
- (d) The date and 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) The number of persons killed or seriously injured as the result of the accident:
- (h) The nature and cause of the accident as far as known to the person making the report:
- (i) Brief particulars of any damage to the aircraft.

(3) If all the particulars specified in subclause (2) of this regulation are not immediately available, the report shall so state, and a supplementary report containing the particulars not included in the first report shall be furnished at the earliest possible date.

(4) If the aircraft to which the accident has occurred is registered outside New Zealand the Department shall forward to the State of registry a notification containing the particulars supplied in the report or reports furnished in accordance with subclauses (2) and (3) of this regulation and indicating the nature and extent of the inquiry being conducted in respect of the accident.

Removal of Damaged Aircraft

7. Where an accident occurs in or over New Zealand of which notification is required to be given under regulation 5 hereof, no person other than an authorized person, a member of the Police Force, an officer of Customs, or an authorized officer of the Department of Agriculture shall have access to the aircraft involved in the accident and the aircraft shall not, except under the authority of the Minister, be removed or otherwise interfered with:

Provided that, without any such authority,—

- (a) The aircraft may be removed or interfered with so far as may be necessary for the purpose of extricating persons or animals involved, removing any mails carried by the aircraft, preventing destruction by fire or other cause, or preventing any damage or obstruction to the public or to air traffic or to other transport:
- (b) Goods or passengers' baggage may be removed from the aircraft under the supervision of a member of the Police Force but, if the aircraft has come from a place outside of New Zealand, shall not be removed from the vicinity of the aircraft except on clearance by or with the consent of an officer of Customs, or an authorized officer of the Department of Agriculture:
- (c) If an aircraft is wrecked on the water, the aircraft or any contents thereof may be removed to such an extent as may be necessary for bringing it or them to a place of safety.

Release of Damaged Aircraft

8. When the retention of an aircraft, any parts, or the contents thereof is no longer necessary for the purpose of investigation under these regulations, the aircraft, parts, or contents, as the case may be, shall be released under authority of the Minister to the owner of the aircraft, or, in the case of an aircraft other than a New Zealand aircraft, to the person or persons duly authorized in that behalf by the State of registry.

Authorization of Investigation

9. (1) For the purpose of carrying out investigations into the causes and circumstances of accidents to which these regulations apply, the Minister may appoint qualified persons to be Inspectors of Accidents, one of whom shall be appointed by him as Chief Inspector of Accidents.

(2) Where an accident has occurred in or over New Zealand to an aircraft registered in a State other than New Zealand, the Minister may authorize an investigator appointed by the competent authority of that State to carry out an investigation, and in that event the Minister shall, so far as he is able, facilitate inquiries by the investigator so appointed.

(3) Where an accident occurs outside New Zealand to a New Zealand aircraft, the Minister may appoint an accredited representative and advisers to participate in any investigation or inquiry that may be conducted by the State where the accident occurred.

(4) The Chief Inspector of Accidents, if he thinks fit, may himself carry out an investigation or cause an investigation to be carried out by an Inspector of any accident to which these regulations apply, whether or not the accident is one whereof notification is required to be given under regulation 5 hereof.

Investigation by Inspector of Accidents

10. (1) An Inspector, for the purposes of an investigation under these regulations and in respect of the accident being investigated, may—

(a) At all reasonable times have access to and examine any aircraft involved in the accident and the place where the accident occurred, and for that purpose require any such aircraft or any part or equipment thereof to be preserved unaltered pending examination:

(b) Examine, remove, test, take measures for the preservation of, or otherwise deal with the aircraft or any part thereof or anything contained therein:

(c) Require the production of all books, papers, documents, certificates, and articles which he may consider relevant, and retain any such books, papers, documents, certificates, and articles until the completion of the investigation:

(d) By written notice require the attendance of all such persons as he thinks fit to call before him, and require such relevant information or returns from any such person as he thinks fit:

(e) Take statements regarding the accident from all such persons as he thinks fit, and require any such person to make and sign a declaration of the truth of the statement made by him:

- (f) At all reasonable times 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:
- (g) Take measures for the preservation of evidence.
- (2) Where it appears to the Inspector that in order to resolve any conflict of evidence or that for any other reason it is expedient so to do, he may permit any person to appear before him and call evidence and examine witnesses.
- (3) Where it appears to the Inspector that any degree of responsibility for the accident may be attributed to any person, and if it appears to the Inspector to be practicable to do so, that person or, if he be deceased, his legal personal representatives shall be given notice that blame may be attributed to him and be permitted to make a statement or give evidence and to produce witnesses and to examine any witnesses from whose evidence it appears that he may be blameworthy.
- (4) The Minister may intervene at any stage of an investigation in order to make representations or to examine witnesses, if it appears to him expedient so to do in the public interest.
- (5) Every person whose attendance is required, or who is examined, by an Inspector under this regulation shall be allowed and paid out of moneys appropriated by Parliament for the purpose such expenses as would be allowed to a witness attending as a Crown witness on subpoena to give evidence in a criminal proceeding before the Supreme Court.

Report of Investigation

11. (1) Upon the completion of an investigation, the Chief Inspector of Accidents, or such other Inspector as may be authorized by the Minister, shall make a report to the Minister. He shall state the circumstances of the case and his conclusions as to the cause of the accident, adding any observations and recommendations which he thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in the future. He shall also state to what extent effect has been given to the provisions of subclause (3) of regulation 10 hereof.
- (2) The Minister may cause the whole or any part of any such report to be made public in such manner as he thinks fit.

Right of Access Over Private Lands, etc.

12. (1) Where an aircraft is wrecked or damaged at any place in New Zealand, all persons may, for the purpose of rendering assistance to the aircraft or its occupants, or of saving the lives of the occupants of the aircraft, or of saving the aircraft or its contents, unless there is some public road equally convenient, pass and re-pass, either with or without vehicles, over any land without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and also, on the like condition, deposit on those lands any goods or other article recovered from the aircraft.
- (2) Any owner or occupier who suffers direct injury or loss in consequence of the exercise of the rights given by subclause (1) of this regulation shall be entitled to receive compensation therefor, the amount of the compensation to be fixed by agreement with the Minister with the concurrence of the Minister of Finance, or in default of agreement to be fixed by a Compensation Court under Part III of the Public Works Act 1928.

- (3) No owner or occupier of land shall—
- (a) Impede or hinder any person in the exercise of the rights given by subclause (1) of this regulation by locking his gates, or refusing upon request to open the same, or otherwise; or
 - (b) Impede or hinder the deposit of any goods or other article recovered from the aircraft as aforesaid on the land; or
 - (c) Prevent or endeavour to prevent any such goods or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit.

Public Inquiries

13. (1) Where it appears to the Minister expedient to do so, he shall direct that a public inquiry be held in respect of any accident to which these regulations apply.

(2) The public inquiry shall be held before a Court of Inquiry (in these regulations referred to as the Court) consisting of—

- (a) A Magistrate or other judicial officer who shall preside; and
- (b) Not less than two assessors possessing aeronautical engineering, or other special skill or knowledge,—

appointed by the Minister.

(3) An Inspector may be appointed an assessor in a Court of Inquiry.

(4) Any investigation of an accident by an Inspector pending or in progress at the time of the appointment of a Court of Inquiry in respect of the same accident shall cease on the appointment of the Court.

14. (1) A public inquiry shall be conducted by the Court for the purpose of establishing—

- (a) The place and the time of the accident;
- (b) The causes of the accident and the circumstances in which it arose;
- (c) Any facts which, in the interests of public safety, should be known to the authorities charged with the administration of civil aviation in order that appropriate measures may be taken for the safety of persons engaged in activities relating to aviation.

(2) The Court shall not be concerned with the civil or the criminal liability of any person arising out of the accident in respect of which the inquiry is being held, and no evidence relating to any such liability shall be admitted by the Court for the purposes of the inquiry unless, in the opinion of the Court, the evidence is necessary for establishing any of the matters referred to in subclause (1) hereof.

(3) At any public inquiry the Court may admit any evidence that it thinks fit, whether or not the same is otherwise admissible in a Court of law, but no evidence shall be admitted by the Court for the purposes of the inquiry unless in its opinion the evidence is necessary for the purpose of establishing any of the matters referred to in subclause (1) hereof.

15. The Court, for the purposes of a public inquiry, shall be deemed to be a Commission under the Commissions of Inquiry Act 1908, and the provisions of that Act shall apply accordingly.

16. Where a public inquiry is to be held, the Court shall fix the date, time, and place of the inquiry and shall give notice thereof to the Minister, the pilot in command, and the owner of the aircraft concerned, and such other persons as the Court thinks fit.

17. Subject to the provisions of these regulations, the room in which a public inquiry is held shall be open to the public:

Provided that the Court may in the interests of justice or in the public interest exclude all or any persons from the whole or any part of the proceedings at the inquiry.

18. The Court shall at the inquiry examine on oath all persons who tender their evidence respecting the facts in issue and all other persons whom it thinks it expedient to examine.

19. (1) The Minister, the pilot in command of the aircraft at the time of the accident, and the owner of the aircraft shall be parties to the proceedings.

(2) The Court may, at any stage of the proceedings, direct that any person who in its opinion ought to be joined as a party shall be so joined.

(3) Any party to the proceedings may be represented by counsel, may call witnesses, and may address the Court.

20. (1) Proceedings at a public inquiry shall commence with the production and examination of witnesses on behalf of the Minister. All witnesses called may be cross-examined by any party to the proceedings and re-examined by the party by whom the witness was called.

(2) Except as otherwise provided by these regulations, the Court shall determine its own procedure.

21. (1) At the conclusion of the public inquiry the Court shall prepare a report of its findings to the Minister which shall be signed by all members of the Court.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent from the report and his reasons for any such dissent. Any document signed by an assessor under this subclause shall be attached to and form part of the report.

(3) The Minister may cause the whole or any part of any such report to be made public in such manner as he thinks fit.

22. Every witness attending and giving evidence at a public inquiry and every counsel appearing before the Court shall have the same privileges and immunities as witnesses and counsel in Courts of law.

23. (1) Any summons to a witness at a public inquiry may be issued on behalf of the Court by any member thereof, and shall be served either by delivering it to the person summoned or by posting it by registered letter addressed to his usual or last known place of residence.

(2) Subject to the provisions of this regulation, every person summoned to attend or giving evidence at any public inquiry shall be entitled to witnesses' expenses and allowances at the rate prescribed by and in accordance with the regulations for the time being in force relating to the payment of Crown witnesses in criminal proceedings before the Supreme Court.

(3) Where any party to the proceedings other than the Minister requires the evidence of any witness, that party shall, if the person presiding at the Court so directs, before the summons to the witness is

issued, deposit with the Court such sum of money as the person presiding deems sufficient, and the expenses and allowances of the witness shall be paid out of the sum so deposited.

(4) In every other case the expenses and allowances of a witness shall, if authorized by the Court, be paid out of moneys appropriated by Parliament for the purpose.

24. (1) Where in respect of any public inquiry the Minister is satisfied that either—

(a) New and important evidence which could not be produced at the inquiry has been discovered; or

(b) For any other reason it is necessary or desirable in the interests of justice or in the public interest that another public inquiry should be held,—

the Minister may direct an inquiry to be reheard, either before the original Court or before another Court.

(2) The provisions of these regulations relating to public inquiries shall apply to any rehearing:

Provided that the Court rehearing the inquiry may accept at the rehearing such of the evidence given at the original hearing as it thinks fit.

25. It shall be the duty of the Chief Inspector of Accidents to assist at all public inquiries under these regulations and for that purpose he shall have all the powers conferred on Inspectors by regulation 10 hereof.

26. There shall be paid out of moneys appropriated by Parliament for the purpose to any assessors appointed to the Court under these regulations remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if any such assessors were members of a statutory Board within the meaning of that Act.

Accidents Involving Foreign Aircraft

27. Where an investigation by an Inspector or a public inquiry relates to an accident which has occurred in or over New Zealand to an aircraft registered in a contracting State other than New Zealand, an accredited representative of the State in which the aircraft is registered, or of any State which has, on request, furnished information in connection with the accident, may take part in the investigation or in the inquiry, as the case may be; and any such representative may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the State by which he is appointed.

28. Where an accident has occurred in or over New Zealand to an aircraft registered in a contracting State other than New Zealand the Minister, if the State of registry so requests, shall refer the accident to a Court of Inquiry.

29. The Minister shall transmit to any State which has been represented at a Court of Inquiry held under these regulations a copy of the report made by the Court, as soon as possible.

Penalties

30. Any person who contravenes or fails to comply with any provision of these regulations commits an offence and shall be liable on summary conviction to a fine not exceeding £200 or to imprisonment for a term not exceeding six months.

Revocations

31. (1) The Air Navigation Regulations 1933* and the Air Navigation Regulations 1933, Amendment No. 19, are hereby revoked.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any document made or thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation, and could have been made or done under these regulations shall continue to have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

T. J. SHERRARD,
Clerk of the Executive Council.

* *Gazette*, 1933, Vol. II, page 1473.

Amendment No. 19: Statutory Regulations 1951, Serial number 1951/49, page 184.

EXPLANATORY NOTE

[*This note is not part of the Regulations, but is intended to indicate their general effect.*]

These regulations made under section 8 of the Civil Aviation Act 1948, revoke and replace regulations 35 to 44 inclusive of the Air Navigation Regulations 1933. The regulations embody the provisions of the revoked regulations and revise and amplify them to accord with current requirements and to bring them into line with Annex 13 of the International Civil Aviation Convention as adopted by the Council of the International Civil Aviation Organization on 11 April 1951.

The regulations follow closely the United Kingdom provisions and introduce new arrangements for public inquiries into aircraft accidents somewhat similar to those established for shipping accidents.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 12 November 1953.

These regulations are administered in the Air Department.