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**CIVIL AVIATION (AIRCRAFT ACCIDENT AND INCIDENT  
INVESTIGATION) REGULATIONS, 2016**

*Arrangement of Regulations*

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**S.I. 2016 No.**

Civil Aviation Act

CAP. 288B

**CIVIL AVIATION (AIRCRAFT ACCIDENT AND INCIDENT  
INVESTIGATION) REGULATIONS, 2016**

The Minister, in exercise of the power conferred on him by section 88(*u*) of the *Civil Aviation Act*, makes the following Regulations:

PART I

PRELIMINARY

**Citation**

1. These Regulations may be cited as the *Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2016*.

**Interpretation**

2. In these Regulations,

“ADREP” means the Accident or Incident Data Reporting System operated and maintained by ICAO;

“aircraft accident” means an occurrence associated with the operation of a aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of taking a flight until the time when all persons on board have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the

purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down in which

- (a) a person is fatally or seriously injured as a result of being
  - (i) in the aircraft;
  - (ii) in direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
  - (iii) in direct exposure to jet blast

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

- (b) the aircraft sustains damage or structural failure which
  - (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
  - (ii) would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tyres, brakes, wheels, fairings, panels, landing gear doors, windscreens, aircraft skin (small dents or puncture holes) or for minor damage to main rotor blades, landing gear and those resulting from hail or bird strike (including holes in the radome); or

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

“accredited representative” means a person designated by a State, which has established an accident investigation authority, on the basis of his qualification for the purpose of participating in an investigation conducted by another State;



- “adviser” means a person appointed by a State on the basis of his or her qualifications for the purpose of assisting its accredited representative in an investigation;
- “aircraft” means any machine that can derive support in the atmosphere from the reactions of the air against the earth’s surface;
- “ATS” means air traffic services;
- “causes” means actions, omissions events, conditions or a combination thereof which led to the accident or incident;
- “civil aircraft” means an aircraft other than an aircraft used in military, customs or police service;
- “flight recorder” means a type of recorder installed in an aircraft for the purpose of complementing accident or incident investigation;
- “ICAO” means the International Civil Aviation Organisation;
- “incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;
- “investigation” means a process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and contributing factors and when appropriate, the making of safety recommendations;
- “investigator-in-charge” means a person charged, on the basis of his qualifications, with the responsibility for the organisation, conduct and control of an investigation;
- “maximum mass” means maximum certificated take-off mass;
- “operator” means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;
- “preliminary report” means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;

“safety recommendation” means a proposal of an accident investigation authority that is based on

- (a) information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident; or
- (b) arising from safety studies;

“serious incident” means an incident involving circumstances indicating that there was a high probability of an accident and is associated with the operation of

- (a) a manned aircraft and takes place between the time any person boards the aircraft with the intention of taking a flight until such time as all such persons have disembarked; or
- (b) an unmanned aircraft and takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down;

“serious injury” means an injury which is sustained by a person in an accident and which

- (a) requires hospitalisation for more than 48 hours, commencing within 7 days from the date the injury was received;
- (b) results in a fracture of any bone except for simple fractures of fingers, toes or nose;
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to any internal organ;
- (e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or

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

“State of Design” means the State having jurisdiction over the organisation responsible for the type design;

“State of Manufacture” means the State having jurisdiction over the organisation responsible for the final assembly of the aircraft;

“State of Occurrence” means the State in the territory of which an accident or incident occurs;

“State of the Operator” means the State in which the operator’s principal place of business is located or if there is no such place of business, the operator’s permanent residence;

“State of Registry” means the State on whose register the aircraft is entered;

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

## PART II

### APPLICABILITY OF REGULATIONS AND OBJECTIVE

#### **Applicability**

**3.** These Regulations shall apply to

(a) the reporting and investigation of accidents, serious incidents and incidents of

(i) civil aircraft within Barbados;

(ii) Barbados aircraft, wherever the accident or incident occurs; and

(iii) civil aircraft in which Barbados has a safety related or legal obligation, wherever the accident or incident occurs; and

(b) measures to prevent aircraft accidents and incidents.

### **Objective of Investigation**

4. The Director shall ensure that the prevention of accidents and incidents is the sole objective of an investigation of an accident, serious incidents or incident under these Regulations and not for the purpose of apportioning blame or liability.

## **PART III**

### **PROTECTION OF EVIDENCE, CUSTODY AND REMOVAL OF AIRCRAFT**

#### **Measures to protect evidence**

5.(1) Where an accident or incident occurs in Barbados in respect of an aircraft, the Director shall take all reasonable measures to protect the evidence and maintain safe custody of the aircraft and its contents for such period as may be necessary for the purposes of an investigation.

(2) For the purpose of paragraph (1)

“protection of evidence” includes the preservation, by photographic or other means of any evidence which might be removed, effaced, lost or destroyed; and

“safe custody” includes protection against further damage, access by unauthorised persons, pilfering and destruction.

**Recovery and handling of flight recorder and recordings**

6.(1) The Director shall ensure that in an accident or incident, recovery and handling of a flight recorder and its recording are only assigned to qualified personnel in order to ensure the protection of the flight recorder evidence.

(2) Where an accident or incident occurs in Barbados in respect of an aircraft and a request is received from

- (a) the State of Design;
- (b) the State of Manufacture;
- (c) the State of the Operator; or
- (d) the State of Registry

that the aircraft, its contents and any other evidence remain undisturbed pending inspection by an accredited representative of the requesting State, the Director shall take all necessary steps to comply with such request, so far as this is reasonably practicable and compatible with the proper conduct of the investigation.

(3) Notwithstanding paragraph (2), the aircraft involved in an accident or incident may be moved

- (a) to the extent necessary to extricate person, animals, mail and valuables from the accident;
- (b) to prevent destruction by fire or other causes;
- (c) to eliminate any danger or obstruction to air navigation, to other transport or to the public; and
- (d) provided that the removal of the aircraft does not result in undue delay in returning it to service, where this is practicable.

**Custody of aircraft and its contents**

7.(1) Subject to regulations 5 and 6 custody of an aircraft, its contents or any parts thereof shall be released to any person or persons duly designated by the State of Registry or the State of the Operator, as soon as they are no longer required in the investigation.

(2) For the purpose of paragraph (1), access to aircraft, its contents or any parts thereof shall be facilitated by persons duly designated by the State of Occurrence.

(3) Notwithstanding paragraph (2), where the aircraft, its contents or any parts of it lie in an area within which it is impracticable to grant access, the aircraft, its contents or any parts of it shall be removed to a point where access can be granted.

PART IV

NOTIFICATION

**Responsibility for reporting accidents and incidents**

8.(1) Where the Director receives information of an accident or a serious incident occurring in Barbados he shall cause notification to be forwarded, with minimum delay, and by the most expeditious means to

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture; and
- (e) the ICAO, when the aircraft involved is of a maximum mass of over 2250 kgs or is a turbojet-powered aeroplane.

(2) Where the State of Occurrence is unaware of a serious incident and Barbados is the State of Registry or the State of Operator, the Director shall

forward a notification of the incident to the State of Design, the State of Manufacture and the State of Occurrence.

**Format and content of notification**

9.(1) A notification referred to in regulation 8 shall be in plain language and shall contain as much of the information set out in paragraph (2) as is readily available, but its dispatch shall not be delayed due to the lack of complete information.

- (2) The information referred to in paragraph (1) shall include
- (a) for accidents, the identifying abbreviation ACCID and for serious incidents, the identifying abbreviation INCID;
  - (b) the name of the manufacturer, model, nationality registration marks and serial number of the aircraft;
  - (c) the name of the owner, operator or hirer of the aircraft;
  - (d) the qualification of the pilot-in-command and the nationality of the crew and passengers on board;
  - (e) the date and time, local time and UTC, of the accident or serious incident;
  - (f) the last point of departure and point of intended landing of the aircraft;
  - (g) the position of the aircraft with reference to some easily defined geographical point, latitude and longitude;
  - (h) the number of crew and passengers
    - (i) aboard the aircraft;
    - (ii) killed on board the aircraft; and
    - (iii) seriously injured on the aircraft;
  - (i) the number of people other than crew and passengers killed or seriously injured;

- (j) a description of the accident or serious incident and the extent of damage to the aircraft so far as is known;
  - (k) an indication as to what extent the investigation will be conducted or is proposed to be delegated;
  - (l) the physical characteristics of the accident or serious incident area, as well as an indication of access difficulties or special requirement to reach the site;
  - (m) the identification of the originating authority and the means to contact the investigator-in-charge and the accident investigation authority at any time;
  - (n) whether there is a presence and description of dangerous goods on board the aircraft.
- (3) The notification referred to in regulation 8 shall be in the English language.
- (4) As soon as it is practicable to do so, the details omitted from the notification, as well as known relevant information shall be dispatched to the States listed in regulations 8(1).

**Accident or incident involving a Barbados aircraft occurring outside Barbados**

**10.(1)** Where Barbados is the State of Registry, State of the Operator, State of Design or State of Manufacturer of an aircraft that is involved in an accident or serious incident and the Director is so notified, he shall with the minimum of delay and by the most suitable and quickest means available provide the State of Occurrence with

- (a) any relevant information regarding the aircraft and flight crew involved in the accident or serious incident; and
  - (b) details of any dangerous goods on board the aircraft.
- (2) The Director shall inform the State of Occurrence of whether he intends to appoint an accredited representative and if one is appointed, the name and



contact details as well as the expected date of arrival of the accredited representative shall be provided.

**Responsibility when Barbados as the State of Registry initiates an investigation**

**11.** Where Barbados as State of Registry initiates an investigation of an accident or serious incident occurring to an aircraft, the Director shall forward a notification in accordance with regulation 9 with minimum delay and by the quickest means available to

- (a) the State of the Operation;
- (b) the State of Design;
- (c) the State of Manufacture; and
- (d) the ICAO, when the aircraft involved in the accident or serious incidents, is of a maximum mass of over 2250 kgs or is a turbo-jet powered aeroplane.

**Acknowledgement of receipt of notification of accident or serious incident**

**12.(1)** Where Barbados is the State of the Operator, the State of Design, or the State of Manufacture, the Director shall acknowledge receipt of the notification of an accident or serious incident from the State of Occurrence.

(2) Upon receipt of the notification, Barbados as the State of the Operator, the State of Design or the State of Manufacture shall, upon request, provide the State of Registry with any relevant information available regarding the flight crew and the aircraft involved in the accident or serious incident.

(3) The Director shall inform the State of Registry in relation to paragraph (2) as to whether he intends to appoint and accredited representative and where one is appointed, the name and contact details as well as the expected date of arrival of the accredited representative shall be provided

PART V

INVESTIGATION

**Investigation of accidents or serious incidents occurring in Barbados**

**13.(1)** Where an aircraft of a maximum mass of over 2250 kgs is involved in an accident or a serious incident in Barbados, the Minister shall appoint an investigator-in-charge to institute an investigation into the circumstances of the accident or serious incident and the Chief Investigator shall be responsible for the conduct of the investigation.

(2) The Director may delegate the whole or any part of the investigation described in paragraph (1) to another State or to a regional accident investigation organisation by mutual agreement of the States.

(3) Where the [Director] delegates the conduct of the investigation to another State or regional accident investigation organisation by mutual agreement or consent, the Director as Director of the State of Occurrence shall use every means available to facilitate the investigation.

(4) Where the Director delegates under paragraph (3), the State responsible for the conduct of the investigation or the regional accident investigation organisation is responsible for the issuance of the Final Report and the ADREP reporting.

(5) Where the Director designates a part of the investigation to another State or regional accident investigation organisation, Barbados will retain the responsibility for the conduct of the investigation.

**Investigation of accidents or serious incident in a non-contracting State**

**14.(1)** The Director shall endeavour to institute and conduct and investigation in co-operation with the State of Occurrence where an accident or a serious incident occurs involving a Barbados registered aircraft in a territory of

a non-contracting State and that State does not intend to conduct an investigation in accordance with

- (a) these Regulations; and
  - (b) Annex 13 of the Convention on International Civil Aviation.
- (2) Where the Director does not receive co-operation from the State of Occurrence to conduct an investigation, in accordance with paragraph (1), the Director shall conduct an investigation using the information that is available.

**Investigation of accident or serious incident where Barbados is the State of Registry**

**15.(1)** When an accident or a serious incident involving a Barbadian registered aircraft occurs in a location that cannot definitely be established as being in the territory of any State, the Director shall institute and conduct any necessary investigation of the accident or serious incident.

(2) The Director may by mutual arrangement and consent delegate the whole or part of the investigation mentioned in paragraph (1) to another State.

(3) Where Barbados is the State nearest the scene of an accident in international waters, the Director shall provide such assistance as it is able and shall, likewise respond to requests by the State of Registry.

(4) Where an accident or a serious incident occurs and the State of Registry is a non-contracting State which does not intend to conduct an investigation in accordance with Annex 13 to the Convention on International Civil Aviation, Barbados as the State of the Operator, the State of Design or the State of Manufacture shall endeavour to institute and conduct an investigation.

(5) The Director may delegate the whole or any part of the investigation to another State by mutual arrangement and consent of the States.

### **Organisation and conduct of an investigation**

**16.** The organisation and conduct of the investigation into an aircraft accident or a serious incident shall be in accordance with the Barbados Accident Investigation Manual and the Aircraft Accident and Incident Standards.

### **Appointment of investigator-in-charge**

**17.** When an accident or a serious incident occurs, an investigator-in-charge shall be appointed.

### **Pro tem investigator**

**18.(1)** When an accident occurs, the Director shall be the pro tem investigator in charge until the Minister appoints an investigator-in-charge.

(2) The pro tem investigator may exercise all the power granted to an investigator-in-charge under the *Civil Aviation Act*, Cap. 288.

(3) The pro tem investigator shall as soon as practicable after an investigator-in-charge is appointed by the Minister report on his initial investigation and hand over control of the investigation to the investigator-in-charge.

### **Responsibility of the accident investigation authority**

**19.(1)** The accident investigation authority in Barbados shall have independence in the conduct of the investigation and have unrestricted authority over its conduct consistent with the provisions of these Regulations and will normally carry out the following:

- (a) the gathering, recording and analysis of all relevant information on an accident or incident;
- (b) where appropriate, the issuance of safety recommendations;
- (c) where possible, the determination of the causes or contributing factors of the accident or incident; and

(d) the completion of the Final Report.

(2) Where feasible, the authority referred to in paragraph (1) shall visit the scene of the accident, the wreckage shall be examined and statements taken from witnesses.

(3) The extent of the investigation and the procedure to be followed in carrying out such an investigation shall be determined by the accident investigating authority.

(4) Any investigation conducted under the provisions of these Regulations shall be separate from any judicial or administrative proceedings to apportion blame or liability.

(5) The Director shall prepare documented policies and procedures detailing accident investigation duties, including information on organisation, planning, investigation and reporting.

(6) In conducting an investigation under the provisions of these Regulations the accident investigation authority shall have unrestricted access to all evidential material without delay and shall not be impeded by judicial or administrative investigations or proceedings.

**Best technical expertise**

**20.** The investigator-in-charge in the conduct of an investigation may call upon the best technical expertise from any source to assist with the investigation.

**Judicial or administrative proceedings shall be separate**

**21.** Any judicial or administrative proceedings to apportion blame or liability will be separate from any investigation conducted under the provisions of these Regulations.

**Investigator-in-charge to have unhampered access**

**22.** The investigator-in-charge shall have unhampered access to the wreckage and all relevant material, including flight recorders and ATS records

and shall have unrestricted control over the wreckage to ensure that detailed examination can be made without delay by authorised personnel participating in the investigation.

### **Use of flight records**

**23.** The investigator-in-charge shall make effective use of flight records in the investigation of an accident or an incident wherever practicable by making suitable arrangements for the read-out of the flight records without delay.

### **Procedure when no local flight recorder read-out facilities available**

**24.** When there are no adequate facilities to read-out flight records locally, facilities made available by other States shall be used, giving consideration to the following:

- (a) the capabilities of the read-out facility;
- (b) the timeliness of the read-out facility;
- (c) the location of the read-out facility.

### **Autopsy examinations**

**25.(1)** When conducting an investigation into a fatal accident the investigator-in-charge shall make arrangement for a pathologist, preferably one experienced in accident investigations, to carry out the expeditious and complete autopsy examination of

- (a) fatally injured flight crew; and
- (b) subject to particular circumstances, fatally injured passengers and cabin attendants.

(2) The investigator-in-charge shall, where appropriate, make arrangements for a physician, preferably one experienced in accident investigation, to conduct expeditious medical examinations of the crew, passengers and other aviation personnel.

**Co-ordinating with judicial authorities**

**26.** The investigator-in-charge shall recognise the need for co-ordination between himself and the judicial authorities especially in relation to

- (a) the examination and identification of victims and read-outs of flight recorder; or
- (b) other evidence which also requires prompt recording and analysis for the investigation to be successful.

**Investigator-in-charge becoming aware of an act of unlawful interference**

**27.** Where during the course of an investigation the investigator-in charge becomes aware of, or suspects that an act of unlawful interference was involved, the investigator-in-charge shall immediately initiate action to ensure that the aviation security authorities concerned and the Royal Barbados Police Fore are so informed.

**Non-disclosure of records**

**28.(1)** Where Barbados is the State conducting the investigation of an accident or incident, the Director shall not make the records set out in paragraph (2) available for purposes other than accident or incident investigation unless the appropriate authority for the administration of justice determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigation.

- (2) The records referred to in paragraph (1) are
  - (a) all statement taken from persons by the investigation authorities in the course of their investigation;
  - (b) all communications between persons having been involved in the operation of the aircraft;

- (c) medical or private information regarding persons involved in the accident or incident;
  - (d) cockpit voice recordings and transcripts from such recordings;
  - (e) recordings and transcripts of recordings from air traffic control units;
  - (f) cockpit airborne image recordings and any part or transcripts from such recordings; and
  - (g) opinions expressed in the analysis of information, including flight recorder information.
- (3) The accident investigation authority shall not disclose the names of the persons involved in an accident or incident.
- (4) The records mentioned in paragraph (2) shall be included in the Final Report or its appendices only when pertinent to the analysis of the accident or incident, however, parts of the records not relevant to the analysis shall not be disclosed.

#### **Re-opening of an investigation**

- 29.(1)** Where an investigation has been closed and new and significant evidence becomes available, the investigation shall be re-opened.
- (2) When an investigation is instigated by Barbados, but is conducted by another State, that State shall first obtain the consent of the Barbadian authorities before re-opening the investigation.
- (3) When an investigation is instigated by another State, but is conducted by Barbados, Barbados shall first obtain the consent of the other State's authority before re-opening the investigation.

#### **Provision of information**

- 30.** The Director shall, on request from a State conducting an investigation of an accident or an incident, provide that State with all the relevant information available to him.



**Provision of information covering facilities or services**

**31.** Where facilities or services in Barbados have been or would normally have been used by an aircraft prior to an accident or an incident and there is information pertinent to the investigation, the Director shall provide such information to the State conducting the investigation.

**Providing flight recorder records and records from Barbadian aircraft landing outside of the State of Occurrence**

**32.** Where Barbados is the State of Registry or the State of the Operator of an aircraft that is involved in an accident or serious incident and the aircraft lands in a State other than the State of Occurrence, the Director shall, on request from the State conducting the investigation, furnish that State with the flight recorder records and where necessary, the associated flight recorders.

**Provision of information concerning organisations**

**33.** Where Barbados is the State of Registry or the State of the Operator of an aircraft, and the aircraft is involved in an accident or serious incident, the Director shall supply all pertinent information to the State conducting the investigation or any organisation whose activities may have directly or indirectly influenced the operation of the aircraft involved in the accident or **serious** incident.

**Participation by State of Registry, State of Operator, State of Design or State of Manufacture in an investigation of an accident or incident occurring in Barbados**

**34.(1)** The State of Registry, the State of the Operator, the State of Design and the State of the Manufacturer shall each be entitled to appoint an accredited representative to participate in the investigation of an accident or **serious** incident involving an aircraft occurring in Barbados.

(2) Where the State of Registry or the State of the Operator appoints one or more advisers proposed by the operator to assist its accredited representative in accordance with subsection (1), the Director shall accept the appointment.

(3) Where neither the State of Registry or the State of the Operator appoints an accredited representative pursuant to subsection (1), the Director may write the operator of the aircraft to appoint an accredited representative, subject to these Regulations.

(4) The State of Design and the State of Manufacture may appoint one or more advisers to assist their accredited representatives.

(5) The advisers appointed under subsection (4) shall be proposed by the organisations responsible for the type design and final assembly of the aircraft.

(6) Where neither the State of Design nor the State of Manufacturer appoints an accredited representative, the Director may invite the organisations responsible for the type design and the final assembly of the aircraft to participate subject to the requirements of these Regulations.

(7) When conducting an investigation of an accident of an aircraft of a maximum mass of over 2250 kgs and the Director specifically requests participation by

- (a) the State of Registry;
- (b) the State of Manufacturer;
- (c) the State of the Operator; and
- (d) the State of Design,

the States concerned shall each appoint an accredited representative to participate in the investigation.

**Appointment of accredited representative to participate in investigation**

**35.** Any State which on request from Barbados provides information, facilities or experts in the course of an investigation, shall appoint an accredited representative to participate in the investigation.

**Appointment of accredited representative for State which provides base for field operations**

**36.** Any State that

- (a) provides Barbados with an operational base for
  - (i) field investigations; or
  - (ii) is involved in search and rescue or wreckage recovery operations; or
- (b) is involved as a State of a code-share or alliance of the operator,

may be invited to appoint an accredited representative to participate in the investigation.

**Entitlement of accredited representatives**

**37.(1)** A State that is entitled to appoint an accredited representative in an investigation shall also appoint one or more advisers to assist the accredited representatives in the investigation.

(2) An adviser referred to in paragraph (1) who assists an accredited representative is permitted under the supervision of the accredited representative to participate in the investigation to the extent necessary to enable the accredited representative to make their participation effective.

**Participation in the investigation**

**38.(1)** Every State participating in the investigation of an accident or serious incident in Barbados shall be under the control of the investigator-in-charge and shall

- (a) visit the scene of the accident or serious incident;
- (b) examine the wreckage;
- (c) obtain witness information and suggest areas of questioning;
- (d) have full access to all relevant evidence as soon as possible;
- (e) receive copies of all pertinent documents;
- (f) participate in read-outs of recorded media;
- (g) participate in off-scene investigative activities like component examinations, technical briefings, tests and simulations;
- (h) participants in investigation progress meetings including deliberations related to analysis, findings, causes and safety recommendations; and
- (i) make submissions in respect of the various elements of the investigation.

(2) The participation of States other than

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design; or
- (d) the State of Manufacture

may be limited to those matters which entitled those States to participate under regulations 37 and 38.

**Information to be provided to Barbados by accredited representatives**

- 39.(1)** An accredited representative and his advisor shall
- (a) provide the Director with all relevant information available to them; and
  - (b) not divulge information on the progress and the findings of the investigation without the express consent of the Director.
- (2) Notwithstanding paragraph (1)(b), nothing in these Regulations precludes the prompt release of facts when authorised by the Director, nor do these Regulations preclude accredited representatives from reporting to their respective States in order to facilitate appropriate safety actions.

**Participation by States whose citizens are fatalities or are seriously injured**

- 40.(1)** A State that has a special interest in an investigation by virtue of the fatalities or serious injuries suffered by its citizens shall appoint an expert who shall
- (a) visit the scene of the accidents or serious incident;
  - (b) have access to
    - (i) relevant factual information which is approved for public release by the State conducting the investigation;
    - (ii) information on the progress of the investigation; and
  - (c) receive a copy of the Final Report.
- (2) Where Barbados is the State conducting the investigation, the Director shall invite the State referred to in paragraph (1) to assist in the identification of the victims and in meeting the survivors of the accident or serious incident that are from that State.

(3) The investigator-in-charge shall release, at least during the first year of the investigation, established factual information and indicate the progress of the investigation in a timely manner.

**Participation in investigation of aircraft accident or serious incident occurring outside Barbados**

**41.(1)** The Director may designate an accredited representative to participate in the investigation of an accident or serious incident of

- (a) a Barbados aircraft; or
- (b) a foreign aircraft operated by a national air operator

occurring in the territory of another State.

(2) The Director shall appoint one or more advisers proposed by the operator to assist the accredited representative appointed under paragraph (1).

(3) When the Director designates an accredited representative and appoints advisers under paragraphs (1) and (2) respectively, he shall inform the State of Occurrence of

- (a) the names and contact details of the accredited representatives and advisers; and
- (b) the expected dates of arrival of the accredited representatives and advisers when they travel to the State of Occurrence.

(4) An accredited representative and his adviser who participates in an investigation of an accident or serious incident shall

- (a) provide the State conducting the investigation with all of the relevant information available; and
- (b) not divulge information on the progress and the findings of the investigation without the express consent of the State conducting the investigation.

(5) The Director shall, where another State institutes and conducts and investigation of an accident, which involves fatalities or serious injuries to citizens of Barbados, request permission from that State to appoint an expert to represent the special interest of Barbados and to

- (a) visit the scene of the accident or serious incident;
- (b) have access to the relevant factual information;
- (c) participate in the identification of the victims;
- (d) assist in questioning surviving passengers who are citizens of the State of the expert; and
- (e) receive a copy of the Final Report.

(6) An accredited representative designated in accordance with paragraph (1), may participate in the investigation of the accident or serious incident under the control of the investigator-in-charge.

(7) The investigator-in-charge shall allow an accredited representative designated under paragraph (1), to

- (a) visit the scene of the accident or serious incident;
- (b) examine the wreckage;
- (c) obtain witness information and suggest areas of questioning;
- (d) have access to all relevant evidence;
- (e) receive copies of all relevant documents, books, notes, photographs, recordings and transcripts;
- (f) participate in read-outs of recorded media;
- (g) participate in component examinations, technical briefings, tests and simulations and other investigative activities;
- (h) participate in deliberations on the analysis, findings or causes and safety recommendations; and

- (i) make submissions in respect of the various elements of the investigation.

## PART VI

### ACCIDENT OR INCIDENT REPORTING

#### **Preliminary report**

**42.** Every investigator-in-charge of an investigation of an accident or serious incident shall prepare a preliminary report in accordance with the Accident Investigation Regulations Implementing Standards.

#### **Distribution of preliminary reports**

**43.(1)** When an aircraft involved in an accident is of a maximum mass of over 2250 kgs and the accident occurs in Barbados, and Barbados, is the State conducting the investigation, the preliminary report shall be sent to:

- (a) the State of Registry or the State of Occurrence as appropriate;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture;
- (e) any State that provided relevant information significant facilities or experts; and
- (f) the ICAO.

(2) When the aircraft involved in an accident is of a maximum mass of 2250 kgs or less and when airworthiness or matters considered to be of interest to other States are involved, the preliminary report shall be forwarded to:

- (a) the State of Registry or the State of Occurrence as appropriate;
- (b) the State of the Operator;



- (c) the State of Design;
- (d) the State of Manufacture;
- (e) any State that provided relevant information significant facilities or experts.

#### **Transmission of preliminary report**

44.(1) Every preliminary report shall be submitted to the relevant States and to the ICAO in the English Language.

- (2) The preliminary report shall be sent by
  - (a) facsimile;
  - (b) email; or
  - (c) air mail

within 30 days of the date of the accident, unless the Accident or Incident Data Report has been sent by that time.

- (3) When matters directly affecting safety are involved, the preliminary report shall be sent as soon as the information is available and by the most suitable and most expeditious means available.

#### **Accident data report**

45.(1) The Director shall ensure that when an aircraft of a maximum mass of over 2250 kgs is involved in an accident, the Accident or Incident Data Report shall be sent to the ICAO as soon as practicable after the investigation.

- (2) The Director shall upon request from a State make available to that State pertinent information additional to that made available in the Accident or Incident Data Report to other States.

**Incident data report notification to ICAO for aircraft over 5700 kgs**

**46.** The Director shall ensure that when an investigation is conducted into an incident concerning an aircraft of a maximum mass of over 5700 kgs, the Incident Data Report shall be sent to the ICAO as soon as practicable after the investigation.

PART VII

FINAL REPORT

**Investigator-in-charge to ensure final report meets requirements**

**47.** The investigator-in-charge shall ensure that he fulfils all of the requirements for which he is responsible as set out in the Final Report in respect of an investigation into an aircraft accident or serious incident.

**Format of Final Report**

**48.** The format of the Final Report in the Aircraft Accident and Incident Investigation Standards shall be used and may be adapted to the circumstances of the accident or serious incident.

**Draft Final Report**

**49.** The investigator-in-charge who conducts an investigation of an aircraft accident or serious incident shall

- (a) prepare a draft Final Report; and
- (b) submit the Report
  - (i) to the Minister in the case of an aircraft accident;
  - (ii) to the Director in the case of a serious incident.

**Distribution of Draft Final Report**

**50.(1)** The Minister or the Director shall send a copy of the draft Final Report to the following States

- (a) the State that institutes the investigation;
- (b) the State of Registry;
- (c) the State of the Operator;
- (d) the State of Design;
- (e) the State of Manufacture;
- (f) the State that participated in the investigation,

inviting the States for its substantiated comments on the Report, as soon as possible.

(2) The Minister or Director shall

- (a) send copies of the draft Final Report under confidential cover;
- (b) forbid the recipients of the draft Final Report from circulating, publishing or giving access to
  - (i) the draft Final Report or any part thereof; or
  - (ii) to any documents obtained during the investigation of the accident or incident without the express consent of Barbados unless the Report or documents have already been published or released by Barbados.

(3) A copy of the draft Final Report may be sent through the State of the Operator to the operator to enable the operator to submit comments on the draft Final Report.

(4) A copy of the draft Final Report may be sent through the State of Design and the State of Manufacturer to the organisations responsible for the type design

and the final assembly of the aircraft to enable them to submit comments on the draft Final Report.

(5) Where Barbados receives comments within 60 days of the date of the transmittal letter it shall either amend the draft Final Report to include the substance of the comments received or, where desired by the State that provided the comments, append the comments to the Final Report.

(6) Where no comments are received within 60 days of the date of the first transmittal letter, the Final Report shall be issued in accordance with regulation 51, unless an extension of that period has been agreed by the States concerned.

(7) On receipt of the comments from the State referred to in paragraph (1), the Minister shall forward the comments to the investigator-in-charge to

- (a) amend the draft Final Report to include the comments; or
- (b) append the comments to the Final Report where the State has made the comments.

(8) On completion of the amending or appending of the draft Final Report, the investigator-in-charge shall forward the Final Report, to the Minister.

### **Distribution of Final Report**

**51.** The Minister shall send the Final Report of the investigation of an accident with minimum delay to

- (a) the State that institutes the investigation;
- (b) the State of the Operator;
- (c) the State of Registry;
- (d) the State of Design;
- (e) the State of the Manufacturer;
- (f) any State that participated in the investigation;

- (g) any State that has citizens who have suffered fatalities or serious injuries;
- (h) any State that provided relevant information, significant facilities or experts.

### **Publishing of Final Report**

**52.(1)** In the interest of accident prevention, the Minister shall make the Final Report publicly available within 12 months of the date of the accident or serious incident.

(2) Where the Minister cannot make the Final Report public within the 12 months as stated in paragraph (1), an interim statement shall be made publicly available on each anniversary of the occurrence, and shall specify the progress of the investigation and the safety issues raised.

### **Sending Final Report to ICAO**

**53.** Where the Director has conducted an investigation into an accident or serious incident involving an aircraft of a maximum mass of over 5700 kgs, the Director shall send a copy of the Final Report to the ICAO.

### **Dated transmittal letter for issuing preventative and safety recommendations**

**54.(1)** An investigator-in-charge shall, at any stage of an investigation of an accident or serious incident, recommend in a dated transmittal letter to the appropriate authority, including the appropriate authority in other States, any preventative action that is considered necessary to be taken promptly in order to enhance aviation safety.

(2) The Director shall, while conducting investigations of accidents or serious incidents, address when appropriate, any safety recommendations arising out of his investigation in date transmittal, correspondence to the accident investigation authority of another State concerned and when ICAO documents are involved, to the ICAO.

(3) When a Final Report containing safety recommendations are addressed to ICAO because ICAO documents are involved, the Director shall send along with the Report a letter outlining the specific action proposed.

**Action of Director on receipt of safety recommendations**

**55.(1)** Where the Director receives safety recommendations, he shall within 90 days inform the proposing State of the date of the transmittal correspondence of the preventive action taken or under consideration, or the reasons why no action will be taken.

(2) The Director shall implement procedures to record the responses to safety recommendations issued by any State that has an interest in the investigation.

(3) The Director, on receipt of a safety recommendation, shall implement procedures to monitor the progress of the action taken in response to the safety recommendation.

**Preventative action**

**56.** The investigator-in-charge of the accident or serious incident may make proposals for preventative action other than safety recommendations.

**PART VIII**

**ACCIDENT PREVENTION MEASURES**

**Mandatory incident reporting system**

**57.** The Director shall establish a mandatory incident reporting system to facilitate the collection of information on actual or potential safety deficiencies.

### **Voluntary reporting system**

**58.(1)** The Director shall establish a voluntary incident reporting system to facilitate the collection of information that may not be captured by a mandatory incident reporting system.

(2) The Director shall ensure that the voluntary incident reporting system referred to in paragraph (1) is not punitive and affords protection to the sources of the information.

### **Establishing accident and incident data base**

**59.(1)** The Director shall establish and maintain an accident and incident database to facilitate the effective analysis of information on actual or potential safety deficiencies obtained, including that from the incident reporting systems.

(2) The database system referred to in paragraph (1) shall use a standardised formats to facilitate data exchange.

### **Analysis of information in the database**

**60.(1)** Where the Director establishes

- (a) an accident and incident database; and
- (b) an incident reporting system

he shall analyse the information contained in the accident or incident reports and in the database to determine any preventative action required.

(2) Where the Director in the analysis of the information contained in the database identifies safety matters considered to be of interest to other States, that safety information shall be forwarded to them as soon as possible.

(3) When the Director becomes aware of safety recommendations from sources, such as safety studies, and they are addressed to an organisation in another State, the information shall also be transmitted to that State's investigation authority.

