

Statutory Document No. 2019/0267



*Airports and Civil Aviation Act 1987*

# **CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS) ORDER 2019<sup>1</sup>**

*Approved by Tynwald:* 17 July 2019  
*Coming into Operation:* 1 August 2019

The Department for Enterprise makes the following Order under sections 11A, 11B and 11I of the Airports and Civil Aviation Act 1987.

## **PART 1**

### **General**

#### **1 Title**

This Order is the Civil Aviation (Investigation of Air Accidents and Incidents) Order 2019.

#### **2 Commencement**

If approved by Tynwald, this Order comes into operation on 1 August 2019<sup>1</sup>.

#### **3 Interpretation**

(1) In this Order –

"**the AAIB**" means the United Kingdom's Air Accidents Investigation Branch which is part of the United Kingdom's Department of Transport;

"**Annex 13**" means Annex 13 (Aircraft Accident and Incident Investigation) to the Chicago Convention<sup>2</sup> as that Annex has effect from time to time;

"**Chief Inspector of Air Accidents**" means the Chief Inspector of the AAIB appointed by the Secretary of State for the Department for Transport;

"**Contracting State**" means any State which is party to the Chicago Convention;

<sup>1</sup> Tynwald approval is required by sections 11A(6) and 11B(6) of the Airports and Civil Aviation Act 1987

<sup>2</sup> Annex 13 to the Convention on International Civil Aviation Aircraft Accident and Incident Investigation

"**Inspector**" means an Inspector of the AAIB;

"**Investigating Inspector**" means the investigator-in-charge and any other Inspector who is assisting the investigator-in-charge with a safety investigation;

"**Regulation 996/2010**" means Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC<sup>3</sup>;

"**Regulation 376/2014**" means Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and Repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007<sup>4</sup>;

"**Regulation 2018/1139**" means Regulation (EU) No 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, No 376/2014 and Directives 2014/30/EU and 2104/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91<sup>5</sup>; and

"**the Department**" means the Department for Enterprise.

(2) Any expression used in this Order which is defined in Regulation (EU) No 996/2010 has the same meaning given in that Regulation.

#### **4 Amendment of the Civil Aviation (Subordinate Legislation) (Application) Order 2006**

(1) The Civil Aviation (Subordinate Legislation) (Application) Order 2006<sup>6</sup> is amended as follows.

(2) In Schedule 1, omit the following item from the list of enactments –  
"1996/2798 Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996".

(3) In Schedule 2, omit in its entirety the first-appearing Part numbered "6", and which bears the following heading –

"PART 6

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS SUBJECT TO  
WHICH SI 1996/2798 APPLIES TO THE ISLAND".

<sup>3</sup> OJ No L 295, 12.11.10, p35

<sup>4</sup> OJ No L 122, 24.4.2014, p18

<sup>5</sup> OJ No L 212, 22.8.2018, p1

<sup>6</sup> SD 909/06

## **5 Application of EU Legislation to the Island**

The following instruments apply to the Island as part of the law of the Island, subject to the modifications set out in the Schedule –

- (a) Regulation 996/2010;
- (b) Article 22 of Regulation 376/2014;
- (c) Article 135 of Regulation 2018/1139.

## **6 Meaning of "act of unlawful interference"**

For the purposes of Article 12(2) of Regulation 996/2010, "an act of unlawful interference" means any act which constitutes an offence under—

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

## **7 Service of notices and other documents**

- (1) Any notice or other document required or authorised by this Order to be served on any person may be served by—
  - (a) delivering it to that person in person;
  - (b) leaving it at that person's proper address; or
  - (c) sending it by post or by electronic means to that person's proper address.
- (2) In the case of a body corporate, any such notice or document may be served on a director of that body or on any other officer or employee of that body ("authorised person") who is authorised to accept service of such notices or documents on its behalf.
- (3) For the purposes of this article, "proper address" means—
  - (a) in the case of a body corporate or its director or authorised person—
    - (i) the registered or principal office of that body; or
    - (ii) the email address of the secretary or clerk of that body, the director or the authorised person;

- (b) in any other case, a person's last known address, which includes an email address.

## **8 Safety investigation authority and accident investigation authority**

- (1) The AAIB is designated as—
  - (a) the safety investigation authority for the Island for the purposes of Article 4 of Regulation 996/2010; and
  - (b) the accident investigation authority for the Island for the purposes of Annex 13.
- (2) The AAIB must be subject to the law of the Island in respect of the performance of the powers and obligations of the safety investigation authority in the Island under Regulation 996/2010.
- (3) The Chief Inspector of Air Accidents, Deputy Chief Inspector and any Investigating Inspector must be subject to the law of the Island in respect of the performance of their powers and obligations under this Order.

## **9 Objective of a safety investigation**

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

## **10 Inspectors of Air Accidents**

- (1) Any of the Chief Inspector's powers and obligations under this Order may be exercised or discharged by a Deputy Chief Inspector where the Chief Inspector so directs.
- (2) Where a safety investigation is required or permitted by Regulation 996/2010, Annex 13 or by this Order, the investigator-in-charge is the Chief Inspector or any other Inspector selected by the Chief Inspector for that purpose.
- (3) The Chief Inspector may instruct one or more Inspectors to assist the investigator-in-charge. Any Inspector so instructed must carry out that inspection.

## **11 Power to investigate**

- (1) Notwithstanding the obligations to investigate imposed by Article 5(1) and (2) of Regulation 996/2010 and by Chapter 5 of Annex 13, the Chief Inspector may cause a safety investigation to be conducted in accordance with Regulation 996/2010, Annex 13 and this Order where—
  - (a) an accident, a serious incident or any other incident occurs in or over the Island;

- (b) that accident, serious incident or incident involves any aircraft, including an aircraft engaged in military, customs, police or similar services; and
  - (c) the Chief Inspector expects to draw safety lessons for civil aviation from the safety investigation.
- (2) In this article "similar services" has the same meaning as in Article 3(3) of Regulation 996/2010.

## **12 Obligation to investigate accidents and serious incidents occurring outside the Island**

- (1) Insofar as it is practicable to do so, the Chief Inspector must cause a safety investigation to be conducted in accordance with Regulations 996/2010, Annex 13 and this Order where—
- (a) an accident or serious incident occurs in or over a country or territory other than the Island or any other Contracting State;
  - (b) the accident or serious incident involves an aircraft in respect of which the Island is—
    - (i) the State of Registry;
    - (ii) the State of the Aircraft Operator;
    - (iii) the State of Design; or
    - (iv) the State of Manufacture; and
  - (c) an investigation is not being conducted by a Contracting State.
- (2) In this article "investigation", for the purposes of sub-paragraph (1)(c), means a process conducted other than by the AAIB for the purpose of accident and incident prevention, which includes the gathering and analysis of information, the drawing of conclusions (including the determination of causes and contributing factors) and, when appropriate, the making of safety recommendations.

## **13 Additional provisions – Inspectors' powers**

- (1) The power conferred by Article 11(2)(f) of Regulation 996/2010 must be exercised by the service of a summons signed by an Investigating Inspector and requiring any person ("witness") to attend a witness interview at a time and place stated in the summons, in order to –
- (a) answer any question, or
  - (b) produce any document, record, information or other evidence, which is, in the opinion of that Inspector, relevant to the safety investigation.
- (2) A witness must be allowed the expenses of attending a witness interview, payable by the Department.

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An Investigating Inspector has the power to –

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

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- (1) Subject to paragraph (2), an Investigating Inspector may, on production of that Inspector's authority to act as an Inspector, enter and inspect any land or premises (including any dwelling and any aircraft) where, in the opinion of the investigator-in-charge, such action is necessary for the purposes of the safety investigation.
- (2) An Investigating Inspector may not enter and inspect any dwelling unless one of the following conditions is met—
  - (a) the occupier of the dwelling has consented to the entry and inspection;
  - (b) such entry and inspection has been authorised by a warrant issued by a justice, on an application made by an Investigating Inspector and supported by evidence on oath;
  - (c) the investigator-in-charge is satisfied that access to the dwelling is required urgently and that the requirement to obtain consent or a warrant would undermine the safety investigation.
- (3) A justice may issue a warrant if they are satisfied that there are reasonable grounds for entering and inspecting the dwelling for the purposes of the safety investigation and that at least one of the following conditions is met —
  - (a) entry to the dwelling has been, or is likely to be, refused and notice of the intention to apply for a warrant has been served on the occupier;
  - (b) asking for consent to enter and inspect the dwelling would undermine the safety investigation;
  - (c) entry to the dwelling is required urgently;
  - (d) the dwelling is unoccupied or the occupier is temporarily absent.
- (4) A warrant may authorise a maximum of two Investigating Inspectors to enter and inspect a dwelling.

- (5) A warrant is valid for as long as is reasonably necessary for the safety investigation to be conducted but must not exceed one month beginning on the date of its issue.
- (6) Where an Investigating Inspector exercises the power conferred by paragraph (1), that Inspector may –
  - (a) search the land or premises for any item;
  - (b) examine anything that is on the land or premises;
  - (c) require any person to produce any document or record that is in that person's possession or control;
  - (d) seize, detain or remove any item that is on the land or premises and any document or record that has been produced in accordance with sub-paragraph (c); or
  - (e) take copies of or extracts from any document or record found on the land or premises.
- (7) Any item, document or record seized by an Investigating Inspector may be retained until the completion of the safety investigation.
- (8) In this article "dwelling" means any premises wholly or mainly used as a place of residence or abode (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling).

## **16 Release of evidence to owner**

- (1) This article applies where an aircraft, its contents or wreckage ("property") is held by the AAIB in a hangar, or in any other facility which is being used by the AAIB, for the purposes of a safety investigation.
- (2) Subject to paragraph (5), where any such property is no longer required for the purposes of the safety investigation the Chief Inspector must inform the owner of the property, by serving a notice in writing, that it will be released to the owner at the place and date specified in the notice and in accordance with any other arrangements that are specified in the notice.
- (3) An owner on whom such a notice is served must collect the property in accordance with the arrangements specified in the notice (or in accordance with any alternative arrangements that the owner agrees in writing with the Chief Inspector), failing which—
  - (a) the Chief Inspector may make arrangements for the destruction or disposal of the property; and
  - (b) the reasonable costs of such destruction or disposal will be recoverable from the owner as a debt due to the Department.

- (4) A notice served pursuant to paragraph (2) —
  - (a) must not specify a date for collection of the property earlier than one month beginning with the date on which the notice was served; and
  - (b) must include a warning that a failure by the owner to collect the property on the date specified in the notice (or such other date that the owner agrees in writing with the Chief Inspector) will entitle the Chief Inspector to make arrangements for the destruction or disposal of the property and that the reasonable costs of such destruction or disposal will be recoverable from the owner as a debt due to the Department.
- (5) Where any property referred to in paragraph (1) is no longer required for the purposes of the safety investigation and the Chief Inspector is satisfied that a person, body or authority (other than the owner) is entitled (under Island law) to collect that property for the purposes of another investigation and has confirmed their intention to do so —
  - (a) paragraph (2) does not apply to that property; and
  - (b) the Chief Inspector must release it to that person, body or authority and inform the owner of the property, by serving a notice in writing, that it has been so released.
- (6) In this article "owner", in relation to an aircraft which is registered, means the registered owner of the aircraft.

## **17 Notice of safety investigation report**

- (1) Where the investigator-in-charge considers that a safety investigation report could adversely affect the reputation of any person ("the person concerned"), the final safety investigation report must not be published until the investigator-in-charge has —
  - (a) served a notice on the person concerned or, where that person is deceased, the person who appears to the investigator-in-charge to best represent the interests of the person concerned in the matter; and
  - (b) made such changes as the investigator-in-charge thinks fit, following the consideration by that investigator of any representations that have been made pursuant to paragraph (2)(b).
- (2) The notice referred to in paragraph (1)(a) must —
  - (a) include particulars of any proposed analysis of facts and conclusions as to the circumstances and causes of the relevant accident or incident which could affect the person concerned; and
  - (b) inform the person on whom it is served that written representations regarding that proposed analysis may be made to the investigator-in-charge by or on behalf of that person within 28 days, beginning with

the date on which the notice was served, or within such longer period as the Chief Inspector may allow.

### **18 Pre-publication copies of the final safety investigation report**

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

### **19 Reopening of safety investigation**

- (1) Where, following publication of a final safety investigation report relating to an accident or serious incident, evidence has become available which, in the Chief Inspector's opinion, is new and significant, the Chief Inspector must cause the safety investigation to be reopened.
- (2) Following publication of a final safety investigation report relating to an accident or serious incident, the Chief Inspector may cause the safety investigation to be reopened for any other reason where the Chief Inspector considers it appropriate to do so.
- (3) The Chief Inspector must not reopen a safety investigation into an accident or serious incident in respect of which the task of conducting the safety investigation has been delegated to the AAIB, pursuant to paragraph 2 of Article 6 of Regulation 996/2010 or paragraph 5.1, 5.1.1 or 5.1.2 of Annex 13, without first obtaining the consent of the head of the investigation authority which so delegated that task.

## **PART 2**

### **Contraventions**

### **20 Failure to notify accident or serious incident**

Any person involved who—

- (a) has knowledge of the occurrence of an accident or serious incident in or over the Island, and
- (b) fails, without reasonable excuse, to notify it without delay to the Chief Inspector and, in the case of an accident, a constable, contravenes this Order.

### **21 Obstruction**

Any person who, without reasonable excuse, obstructs or impedes an Inspector in the exercise of any duties, powers or entitlements imposed or conferred by Regulation 996/2010, Annex 13 or by this Order, contravenes this Order.

**22 Provision of false or misleading information**

Any person who knowingly provides false or misleading information to an Inspector in connection with a safety investigation contravenes this Order.

**23 Failure to comply with witness summons**

Any person who fails, without reasonable excuse, to comply with a witness summons served under article 13(1) contravenes this Order.

**24 Failure to preserve evidence**

- (1) Any person who, without reasonable excuse, contravenes any of the prohibitions in Article 13(2) of Regulation 996/2010 also contravenes this Order.
- (2) Any person involved who fails, without reasonable excuse, to take the necessary steps described in Article 13(3) of that Regulation also contravenes this Order.

**25 Failure to protect sensitive safety information**

- (1) Subject to paragraphs (3) and (4), any relevant person who knowingly contravenes any of the prohibitions in Article 14(1) or (2) of Regulation 996/2010 also contravenes this Order.
- (2) In paragraph (1) "relevant person" means—
  - (a) an Inspector;
  - (b) any officer of the Department; or
  - (c) any person to whom any relevant record has been made available by such an Inspector or other officer.
- (3) Paragraph (1) does not apply to information which is included in a final safety investigation report.
- (4) Paragraph (1) does not apply where a relevant person makes a relevant record available to another person ("person A") in the following circumstances—
  - (a) in a case where person A is a party to or otherwise entitled to appear at judicial proceedings and the High Court has ordered that that record must be made available to person A for the purposes of those proceedings; or
  - (b) in any other case, where the High Court has ordered that that record must be made available to person A for other specified purposes.

- (5) The High Court must not make an order under paragraph (4) unless it is satisfied that the benefits of the disclosure of the record concerned outweigh the adverse domestic and international impact which the disclosure might have on the safety investigation to which the record relates or any future safety investigation.
- (6) In this article—
- "**judicial proceedings**" includes any proceedings before any court, tribunal or person having by law power to hear, receive and examine evidence on oath; and
- "**relevant record**" means any of the records specified in Article 14(1) and (2) of Regulation 996/2010.

**26 Unauthorised disclosure of information relating to a safety investigation**

- (1) This article applies to a person who receives information from—
- (a) an Inspector in accordance with Article 15(4) of Regulation 996/2010; or
- (b) the investigator-in-charge in accordance with article 17(1) of this Order.
- (2) Any person to whom this article applies who, without the prior written consent of the Chief Inspector in the case of paragraph (1)(a), causes or permits that information or any part of it to be disclosed to any other person, body or organisation before it is made publicly available by the Chief Inspector (on publication of the final safety investigation report or otherwise) contravenes this Order.

**27 Failure to provide information on persons and dangerous goods on board an aircraft following an accident**

- (1) This article applies where an accident has occurred in or over the Island.
- (2) Where the operator of an aircraft involved in the accident fails to—
- (a) provide to the Chief Inspector, within two hours of the notification by the operator of the occurrence of the accident, the list required by Article 20(1)(a) of Regulation 996/2010, or
- (b) provide to the Chief Inspector, immediately following the notification by the operator of the occurrence of the accident, the list required by paragraph 1(b) of that Article,
- the operator contravenes this Order.

**28 Disclosure of information relating to persons and dangerous goods on board an aircraft and persons to be contacted in the event of an accident**

Any person who causes or permits—

- (a) any information contained in a list produced pursuant to Article 20(1)(a) and (b) of Regulation 996/2010, or
- (b) any information provided to an operator pursuant to paragraph (3) of that Article,

to be used or disclosed other than in accordance with paragraph 2, 3 or 4 of that Article contravenes this Order.

**29 Offences and Penalties**

A person who fails to comply with any of the requirements imposed by articles 20 to 28 shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale;
- (b) on conviction on indictment, to a fine or to custody for a term not exceeding 2 years, or to both.

MADE 13 JUNE 2019

## SCHEDULE

This Schedule sets out the text of Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation

with such exceptions, adaptations and modifications made where necessary.

Note: modifications subject to which the legislation is applied to the Island are in *bold italic* type.

References to a “Member State” must be construed to include the Isle of Man and the Island shall be treated for this purpose as a Member State separate from the UK.

### *Article 1*

#### **Subject matter**

1. This Regulation aims to improve aviation safety by ensuring a high level of efficiency, expediency, and quality of European civil aviation safety investigations, the sole objective of which is the prevention of future accidents and incidents without apportioning blame or liability, including through the establishment of a European Network of Civil Aviation Safety Investigation Authorities. It also provides for rules concerning the timely availability of information relating to all persons and dangerous goods on board an aircraft involved in an accident. It also aims to improve the assistance to the victims of air accidents and their relatives.

2. *Omitted.*

### *Article 2*

#### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘accident’ means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons 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 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 in the aircraft, or,

- direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or,
- direct exposure to jet blast,

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

- (b) the aircraft sustains damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft, and 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, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes) or minor damages to main rotor blades, tail 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;

(2) ‘accredited representative’ means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in a safety investigation conducted by another State. An accredited representative designated by a Member State shall be from a safety investigation authority;

(3) ‘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 a safety investigation;

(4) ‘causes’ means actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident; the identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability;

*(4a) ‘contributing factors’ means actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident. The identification of contributing factors does not imply the assignment of fault or the determination of administrative, civil or criminal liability;*

*(4b) ‘EASA’ means the European Union Aviation Safety Agency;*

(5) ‘fatal injury’ means an injury which is sustained by a person in an accident and which results in his or her death within 30 days of the date of the accident;

(6) ‘flight recorder’ means any type of recorder installed in the aircraft for the purpose of facilitating accident/incident safety investigations;

(7) 'incident' means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

(8) 'international standards and recommended practices' means international standards and recommended practices for aircraft accident and incident investigation adopted in accordance with Article 37 of the Chicago Convention;

(9) 'investigator-in-charge' means a person charged, on the basis of his or her qualifications, with responsibility for the organisation, conduct and control of a safety investigation;

(10) 'operator' means any natural or legal person, operating or proposing to operate one or more aircraft;

(11) 'person involved' means the owner, a member of the crew, the operator of the aircraft involved in an accident or serious incident; any person involved in the maintenance, design, manufacture of that aircraft or in the training of its crew; any person involved in the provision of air traffic control, flight information or aerodrome services, who have provided services for the aircraft; staff of the national civil aviation authority; or staff of EASA;

(12) 'preliminary report' means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;

(13) 'relatives' means the immediate family and/or next of kin and/or other person closely connected with the victim of an accident, as defined under the national law of the victim;

(14) 'safety investigation' means a process conducted by a safety investigation authority for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of cause(s) and/or contributing factors and, when appropriate, the making of safety recommendations;

(15) 'safety recommendation' means a proposal of a safety investigation authority, based on information derived from a safety investigation or other sources such as safety studies, made with the intention of preventing accidents and incidents;

(16) 'serious incident' means an incident involving circumstances indicating that there was a high probability of an accident and is associated with the operation of an aircraft, which in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons 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 it comes to rest at the end of the flight and the primary propulsion system is shut down. A list of examples of serious incidents is set out in the Annex;

(17) *‘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; or*
- (b) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); or*
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or*
- (d) involves injury to any internal organ; or*
- (e) involves second or third degree burns, or any burns affecting more than 5 % of the body surface; or*
- (f) involves verified exposure to infectious substances or harmful radiation;*

(18) *‘State of Design’ means the State having jurisdiction over the organisation responsible for the type design;*

(19) *‘State of Manufacture’ means the State having jurisdiction over the organisation responsible for the final assembly of the aircraft, engine or propeller;*

(20) *‘State of Occurrence’ means the State in the territory of which an accident or incident occurs;*

(21) *‘State of the Aircraft 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;*

(22) *‘State of Registry’ means the State on whose register the aircraft is entered; and*

(23) *‘victim’, for the purposes of Article 15(4) and (5), means any person who suffers a fatal injury or a serious injury in any of the circumstance described in Article 2(1)(a) and for the purposes of this definition “fatal injury” and “serious injury” have the same meanings given by Article 2.*

### Article 3

#### Scope

1. This Regulation shall apply to safety investigations into accidents and serious incidents:

- (a) which have occurred in the territories of the Member States;

- (b) involving aircraft registered in a Member State or operated by an undertaking established in a Member State, which have occurred outside the territories of the Member States to which the Treaties apply, when such investigations are not conducted by another State;
  - (c) in which a Member State is entitled to appoint an accredited representative to participate as a State of Registry, State of the Aircraft Operator, State of Design, State of Manufacture or State providing information, facilities or experts at the request of the State conducting the investigation;
  - (d) in which a Member State having a special interest by virtue of fatalities or serious injuries to its citizens is permitted by the State conducting the investigation to appoint an expert.
2. This Regulation shall also apply to issues pertaining to the timely availability of information relating to all persons and dangerous goods on board an aircraft involved in an accident and assistance to the victims of air accidents and their relatives.
3. This Regulation shall not apply to safety investigations into accidents and serious incidents which involve aircraft engaged in military, customs, police or similar services, except when the Member State concerned so determines, in accordance with Article 5(4) and national legislation.

#### *Article 4*

### **Civil Aviation Safety Investigation Authority**

1. Each Member State shall ensure that safety investigations are conducted or supervised, without external interference, by a permanent national civil aviation safety investigation authority (safety investigation authority) capable of independently conducting a full safety investigation, either on its own or through agreements with other safety investigation authorities.
2. The safety investigation authority shall be functionally independent in particular of aviation authorities responsible for airworthiness, certification, flight operation, maintenance, licensing, air traffic control or aerodrome operation and, in general, of any other party or entity the interests or missions of which could conflict with the task entrusted to the safety investigation authority or influence its objectivity.
3. The safety investigation authority shall, in the conduct of the safety investigation, neither seek nor take instructions from anybody and shall have unrestricted authority over the conduct of the safety investigations.
4. The activities entrusted to the safety investigation authority may be extended to the gathering and analysis of aviation safety related information, in particular for accident prevention purposes, in so far as these activities do not affect its independence and entail no responsibility in regulatory, administrative or standards matters.

5. In order to inform the public of the general aviation safety level, a safety review shall be published annually at national level. In this analysis, the sources of confidential information shall not be revealed.
6. The safety investigation authority shall be given by the respective Member State the means required to carry out its responsibilities independently and shall be able to obtain sufficient resources to do so. In particular:
- (a) the head of the safety investigation authority and/or, in the case of a multimodal authority, the head of its aviation branch shall have the experience and competence in civil aviation safety to fulfil his or her tasks in accordance with this Regulation and national law;
  - (b) the investigators shall be afforded status giving them the necessary guarantees of independence;
  - (c) the safety investigation authority shall comprise at least one available investigator able to perform the function of the investigator-in-charge in the event of a major air accident;
  - (d) the safety investigation authority shall be allocated a budget that enables it to carry out its functions;
  - (e) the safety investigation authority shall have at its disposal, either directly or by means of the cooperation referred to in Article 6, or through arrangements with other national authorities or entities, qualified personnel and adequate facilities, including offices and hangars to enable the storage and examination of the aircraft, its contents and its wreckage.

*Article 5<sup>7</sup>*

**Obligation to investigate**

1. Every accident or serious incident involving aircraft shall be the subject of a safety investigation in the Member State in which the accident or serious incident occurred.
2. Where an aircraft which is registered in a Member State is involved in an accident or a serious incident the location of which cannot be definitely established as being in the territory of any State, a safety investigation shall be conducted by the safety investigation authority of the Member State of registration.
3. The extent of safety investigations referred to in paragraphs 1, 2 and 4 and the procedure to be followed in conducting such safety investigations shall be determined by the safety investigation authority, taking into account the consequences of the accident or serious incident and the lessons it expects to draw from such investigations for the improvement of aviation safety.

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<sup>7</sup> Article 5 was replaced by article 135 of EU Regulation 2018/1139

4. Safety investigation authorities may decide to investigate incidents other than those referred to in paragraphs 1 and 2, as well as accidents or serious incidents to other types of aircraft, in accordance with the national legislation of the Member States, when they expect to draw safety lessons from them.
5. By way of derogation from paragraphs 1 and 2 of this Article, the responsible safety investigation authority may decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of Regulation (EU) 2018/1139, or concerns a manned aircraft with a maximum take-off mass less than or equal to 2 250 kg, and where no person has been fatally or seriously injured.
6. Safety investigations referred to in paragraphs 1, 2 and 4 shall in no case be concerned with apportioning blame or liability. They shall be independent of, separate from and without prejudice to any judicial or administrative proceedings to apportion blame or liability.

*Article 6*

**Cooperation between safety investigation authorities**

1. A safety investigation authority from one Member State may request the assistance of safety investigation authorities from other Member States. When, following a request, a safety investigation authority agrees to provide assistance, such assistance shall, as far as possible, be provided free of charge.
2. A safety investigation authority may delegate the task of conducting an investigation into an accident or serious incident to another safety investigation authority subject to mutual agreement and shall facilitate the investigation process by that other authority.

*Article 7*

**European Network of Civil Aviation Safety Investigation Authorities**

*Omitted*

*Article 8*

**Participation of EASA and national civil aviation authorities in safety investigations**

1. Safety investigation authorities shall, provided that the requirement of no conflict of interest is satisfied, invite EASA and national civil aviation authorities of the Member States concerned, within the scope of their respective competence, to appoint a representative to participate:

- (a) as an adviser to the investigator-in-charge in any safety investigation under Article 5(1) and (2), conducted in the territory of a Member State or in the location referred to in Article 5(2) under the control and at the discretion of the investigator-in-charge;
  - (b) as an adviser appointed under this Regulation to assist accredited representative(s) of the Member States in any safety investigation conducted in a third country to which a safety investigation authority is invited to designate an accredited representative in accordance with international standards and recommended practices for aircraft accident and incident investigation, under the supervision of the accredited representative.
2. The participants referred to in paragraph 1 shall be entitled, in particular to:
- (a) visit the scene of the accident and examine the wreckage;
  - (b) suggest areas of questioning and obtain witness information;
  - (c) receive copies of all pertinent documents and obtain relevant factual information;
  - (d) participate in the read-outs of recorded media, except cockpit voice or image recorders;
  - (e) participate in off-scene investigative activities such as component examinations, tests and simulations, technical briefings and investigation progress meetings, except when related to the determination of the causes or the formulation of safety recommendations.
3. EASA and the national civil aviation authorities shall support the investigation in which they participate by supplying the requested information, advisers and equipment to the safety investigation authority in charge.

#### *Article 9*

#### **Obligation to notify accidents and serious incidents**

1. Any person involved who has knowledge of the occurrence of an accident or serious incident shall notify without delay the competent safety investigation authority of the State of Occurrence thereof.
2. The safety investigation authority shall notify without delay the Commission, EASA, the International Civil Aviation Organisation (ICAO), the Member States and third countries concerned in accordance with the international standards and recommended practices of the occurrence of all accidents and serious incidents of which it has been notified.

*Article 10*

**Participation of the Member States in safety investigations**

1. Upon receipt of the notification of the occurrence of an accident or serious incident from another Member State or third country, the Member States which are the State of Registry, the State of the Aircraft Operator, the State of Design and the State of Manufacture shall, as soon as possible, inform the Member State or third country in the territory of which the accident or serious incident occurred whether they intend to appoint an accredited representative in accordance with the international standards and recommended practices. Where such an accredited representative is appointed, his or her name and contact details shall also be provided, as well as the expected date of arrival if the accredited representative intends to travel to the country which sent the notification.
2. Accredited representatives for the State of Design shall be appointed by the safety investigation authority of the Member State in the territory of which the principal place of business of the certificate holder for the type design of the aircraft or power plant is located.

*Article 11*

**Status of the safety investigators**

1. Upon his or her appointment by a safety investigation authority and notwithstanding any judicial investigation, the investigator-in-charge shall have the authority to take the necessary measures to satisfy the requirements of the safety investigation.
2. Notwithstanding any confidentiality obligations under the legal acts of the Union or national law, the investigator-in-charge shall in particular be entitled to:
  - (a) have immediate unrestricted and unhampered access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;
  - (b) ensure an immediate listing of evidence and controlled removal of debris, or components for examination or analysis purposes;
  - (c) have immediate access to and control over the flight recorders, their contents and any other relevant recordings;
  - (d) request, and contribute to, a complete autopsy examination of the bodies of the fatally injured persons and to have immediate access to the results of such examinations or of tests made on samples taken;
  - (e) request the medical examination of the people involved in the operation of the aircraft or request tests to be carried out on samples taken from such people and to have immediate access to the results of such examinations or tests;

- (f) to call and examine witnesses and to require them to furnish or produce information or evidence relevant to the safety investigation;
- (g) have free access to any relevant information or records held by the owner, the certificate holder of the type design, the responsible maintenance organisation, the training organisation, the operator or the manufacturer of the aircraft, the authorities responsible for civil aviation, EASA and air navigation service providers or aerodrome operators.

3. The investigator-in-charge shall extend to his or her experts and advisers, as well as to the accredited representatives, their experts and advisers, the entitlements listed in paragraph 2, to the extent necessary to enable them to participate effectively in the safety investigation. Those entitlements are without prejudice to the rights of the investigators and experts designated by the authority in charge of the judicial investigation.

4. Any person participating in safety investigations shall perform his or her duties independently and shall neither seek, nor accept instructions from anybody, other than the investigator-in-charge or the accredited representative.

#### *Article 12*

### **Coordination of investigations**

1. When a judicial investigation is also instituted, the investigator-in-charge shall be notified thereof. In such a case, the investigator-in-charge shall ensure traceability and retain custody of flight recorders and any physical evidence. The judicial authority may appoint an official from that authority to accompany the flight recorders or physical evidence to the place of the read-out or treatment. Where examination or analysis of such physical evidence may modify, alter or destroy it, prior agreement from the judicial authorities will be required, without prejudice to national law. Where such agreement is not obtained according to the advance arrangements referred to in paragraph 3 within a reasonable time and not later than 2 weeks following the request, it shall not prevent the investigator-in-charge from conducting the examination or analysis. Where the judicial authority is entitled to seize any evidence, the investigator-in-charge shall have immediate and unlimited access to and use of such evidence.

2. Where, in the course of the safety investigation, it becomes known or it is suspected that an act of unlawful interference as provided for under national law, such as national law on accident investigations, was involved in the accident or serious incident, the investigator-in-charge shall immediately inform the competent authorities thereof. Subject to Article 14, the relevant information collected in the safety investigation shall be shared with those authorities immediately and upon request, relevant material may also be transferred to those authorities. The sharing of that information and that material shall be without prejudice to the right of the safety investigation authority to continue the safety investigation, in coordination with the authorities to which the control of the site may have been transferred.

3. Member States shall ensure that safety investigation authorities, on the one hand, and other authorities likely to be involved in the activities related to the safety investigation, such as the judicial, civil aviation, search and rescue authorities, on the other hand, cooperate with each other through advance arrangements.

Those arrangements shall respect the independence of the safety investigation authority and allow the technical investigation to be conducted diligently and efficiently. Among others, the advance arrangements shall cover the following subjects:

- (a) access to the site of the accident;
- (b) preservation of and access to evidence;
- (c) initial and ongoing debriefings of the status of each process;
- (d) exchange of information;
- (e) appropriate use of safety information;
- (f) resolution of conflicts.

Member States shall communicate to the Commission those arrangements, which shall transmit them to the chairman of the Network, the European Parliament and the Council for information.

#### *Article 13*

### **Preservation of evidence**

1. The Member State in the territory of which the accident or serious incident occurred shall be responsible for ensuring safe treatment of all evidence and for taking all reasonable measures to protect such evidence and for maintaining safe custody of the aircraft, its contents and its wreckage for such period as may be necessary for the purpose of a safety investigation. Protection of evidence shall include the preservation, by photographic or other means, of any evidence which might be removed, effaced, lost or destroyed. Safe custody shall include protection against further damage, access by unauthorised persons, pilfering and deterioration.

2. Pending the arrival of safety investigators, no person shall modify the state of the site of the accident, take any samples therefrom, undertake any movement of or sampling from the aircraft, its contents or its wreckage, move or remove it, except where such action may be required for safety reasons or to bring assistance to injured persons, or under the express permission of the authorities in control of the site and, when possible, in consultation with the safety investigation authority.

3. Any person involved shall take all necessary steps to preserve documents, material and recordings in relation to the event, in particular so as to prevent erasure of recordings of conversations and alarms after the flight.

#### *Article 14*

### Protection of sensitive safety information

1. The following records shall not be made available or used for purposes other than safety investigation:

- (a) all statements taken from persons by the safety investigation authority in the course of the safety investigation;
- (b) records revealing the identity of persons who have given evidence in the context of the safety investigation;
- (c) information collected by the safety investigation authority which is of a particularly sensitive and personal nature, including information concerning the health of individuals;
- (d) material subsequently produced during the course of the investigation such as notes, drafts, opinions written by the investigators, opinions expressed in the analysis of information, including flight recorder information;
- (e) information and evidence provided by investigators from other Member States or third countries in accordance with the international standards and recommended practices, where so requested by their safety investigation authority;
- (f) drafts of preliminary or final reports or interim statements;
- (g) cockpit voice and image recordings and their transcripts, as well as voice recordings inside air traffic control units, ensuring also that information not relevant to the safety investigation, particularly information with a bearing on personal privacy, shall be appropriately protected, without prejudice to paragraph 3.

2. The following records shall not be made available or used for purposes other than safety investigation, or other purposes aiming at the improvement of aviation safety:

- (a) all communications between persons having been involved in the operation of the aircraft;
- (b) written or electronic recordings and transcriptions of recordings from air traffic control units, including reports and results made for internal purposes;
- (c) covering letters for the transmission of safety recommendations from the safety investigation authority to the addressee, where so requested by the safety investigation authority issuing the recommendation;
- (d) *omitted*.

Flight data recorder recordings shall not be made available or used for purposes other than those of the safety investigation, airworthiness or maintenance purposes, except when such records are de-identified or disclosed under secure procedures.

3. Notwithstanding paragraphs 1 and 2, the administration of justice or the authority competent to decide on the disclosure of records according to national law may decide that the benefits of the disclosure of the records referred to in paragraphs 1 and 2 for any other purposes permitted by law outweigh the adverse domestic and international impact that such action may have on that or any future safety investigation. Member States may decide to limit the cases in which such a decision of disclosure may be taken, while respecting the legal acts of the Union.

The communication of records referred to in paragraphs 1 and 2 to another Member State for purposes other than safety investigation and, in addition as regards paragraph 2, for purposes other than those aiming at the improvement of aviation safety may be granted insofar as the national law of the communicating Member State permits. Processing or disclosure of records received through such communication by the authorities of the receiving Member State shall be permitted solely after prior consultation of the communicating Member State and subject to the national law of the receiving Member State.

4. Only the data strictly necessary for the purposes referred to in paragraph 3 may be disclosed.

#### *Article 15*

### **Communication of information**

1. The staff of the safety investigation authority in charge, or any other person called upon to participate in or contribute to the safety investigation shall be bound by applicable rules of professional secrecy, including as regards the anonymity of those involved in an accident or incident, under the applicable legislation.

2. Without prejudice to the obligations set out in Articles 16 and 17, the safety investigation authority in charge shall communicate the information which it deems relevant to the prevention of an accident or serious incident, to persons responsible for aircraft or aircraft equipment manufacture or maintenance, and to individuals or legal entities responsible for operating aircraft or for the training of personnel.

3. Without prejudice to the obligations set out in Articles 16 and 17, the safety investigation authority in charge and the accredited representative(s) referred to in Article 8 shall release to EASA and national civil aviation authorities relevant factual information obtained during the safety investigation, except information referred to in Article 14(1) or causing a conflict of interest. The information received by EASA and the national civil aviation authorities shall be protected in accordance with Article 14 and applicable national legislation.

4. The safety investigation authority in charge shall be authorised to inform victims and their relatives or their associations or make public any information on the factual

observations, the proceedings of the safety investigation, possibly preliminary reports or conclusions and/or safety recommendations, provided that it does not compromise the objectives of the safety investigation and fully complies with applicable legislation on the protection of personal data.

5. Before making public the information referred to in paragraph 4, the safety investigation authority in charge shall forward that information to the victims and their relatives or their associations in a way which does not compromise the objectives of the safety investigation.

#### *Article 16*

### **Investigation report**

1. Each safety investigation shall be concluded with a report in a form appropriate to the type and seriousness of the accident or serious incident. The report shall state that the sole objective of the safety investigation is the prevention of future accidents and incidents without apportioning blame or liability. The report shall contain, where appropriate, safety recommendations.

2. The report shall protect the anonymity of any individual involved in the accident or serious incident.

3. Where safety investigations give rise to reports before the completion of the investigation, prior to their publication the safety investigation authority may solicit comments from the authorities concerned, including EASA, and through them the certificate holder for the design, the manufacturer and the operator concerned. They shall be bound by applicable rules of professional secrecy with regard to the contents of the consultation.

4. Before publication of the final report, the safety investigation authority shall solicit comments from the authorities concerned, including EASA, and, through them the certificate holder for the design, the manufacturer and the operator concerned, who shall be bound by applicable rules of professional secrecy with regard to the contents of the consultation. In soliciting such comments, the safety investigation authority shall follow the international standards and recommended practices.

5. The information covered by Article 14 shall be included in a report only when relevant to the analysis of the accident or serious incident. Information or parts of the information not relevant to the analysis shall not be disclosed.

6. The safety investigation authority shall make public the final report in the shortest possible time and if possible within 12 months of the date of the accident or serious incident.

7. If the final report cannot be made public within 12 months, the safety investigation authority shall release an interim statement at least at each anniversary of the accident

or serious incident, detailing the progress of the investigation and any safety issues raised.

8. The safety investigation authority shall forward a copy of the final report and the safety recommendations as soon as possible to the:

- (a) safety investigation authorities and civil aviation authorities of the States concerned, and the ICAO, according to the international standards and recommended practices;
- (b) addressees of safety recommendations contained in the report;
- (c) Commission and EASA, except where the report is publicly available through electronic means, in which case the safety investigation authority shall only notify them accordingly.

*Article 17*

**Safety recommendations**

1. At any stage of the safety investigation, the safety investigation authority shall recommend in a dated transmittal letter, after appropriate consultation with relevant parties, to the authorities concerned, including those in other Member States or third countries, any preventive action that it considers necessary to be taken promptly to enhance aviation safety.

2. A safety investigation authority may also issue safety recommendations on the basis of studies or analysis of a series of investigations or any other activities conducted in accordance with Article 4(4).

3. A safety recommendation shall in no case create a presumption of blame or liability for an accident, serious incident or incident.

*Article 18*

**Follow-up to safety recommendations and safety recommendations database**

1. The addressee of a safety recommendation shall acknowledge receipt of the transmittal letter and inform the safety investigation authority which issued the recommendation within 90 days of the receipt of that letter, of the actions taken or under consideration, and where appropriate, of the time necessary for their completion and where no action is taken, the reasons therefor.

2. Within 60 days of the receipt of the reply, the safety investigation authority shall inform the addressee whether or not it considers the reply adequate and give justification when it disagrees with the decision to take no action.

3. Each safety investigation authority shall implement procedures to record the responses to the safety recommendations it issued.

4. Each entity receiving a safety recommendation, including the authorities responsible for civil aviation safety at the Member State and Union level, shall implement procedures to monitor the progress of the action taken in response to the safety recommendations received.

5. Safety investigation authorities shall record in the central repository established under Commission Regulation (EC) No 1321/2007 of 12 November 2007 laying down implementing rules for the integration into a central repository of information on civil aviation occurrences exchanged in accordance with Directive 2003/42/EC <sup>(7)</sup> all safety recommendations issued in accordance with Article 17(1) and (2) as well as the responses thereto. Safety investigation authorities shall similarly record in the central repository all safety recommendations received from third countries.

*Article 19*

**Occurrence reporting**

Omitted<sup>8</sup>

*Article 20*

**Information on persons and dangerous goods on board**

1. *Operators of aircraft* arriving to or departing from *the Island* shall implement procedures which allow for the production:

- (a) as soon as possible, and at the latest within two hours of the notification of the occurrence of an accident to the aircraft, of a validated list, based on the best available information, of all the persons on board; and
- (b) immediately after the notification of the occurrence of an accident to the aircraft, of the list of the dangerous goods on board.

2. The lists referred to in paragraph 1 shall be made available to the safety investigation authority in charge, the authority designated by each Member State to liaise with the relatives of the persons on board and, where necessary, to medical units which may need the information for the treatment of victims.

3. In order to allow passengers' relatives to obtain information quickly concerning the presence of their relatives on board an aircraft involved in an accident, airlines shall offer travellers the opportunity to give the name and contact details of a person to be contacted in the event of an accident. This information may be used by the airlines only in the event of an accident and shall not be communicated to third parties or used for commercial purposes.

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<sup>8</sup> Article 19 was deleted by article 22 of EU Regulation 376/2014

4. The name of a person on board shall not be made publicly available before the relatives of that person have been informed by the relevant authorities. The list referred to in paragraph 1(a) shall be kept confidential in accordance with the legal acts of the Union and national law and the name of each person appearing in that list shall, subject thereto, only be made publicly available in so far as the relatives of the respective persons on board have not objected.

*Article 21*

**Assistance to the victims of air accidents and their relatives**

1. In order to ensure a more comprehensive and harmonised response to accidents at EU level, each Member State shall establish a civil aviation accident emergency plan at national level. Such an emergency plan shall also cover assistance to the victims of civil aviation accidents and their relatives.

2. Member States shall ensure that all airlines established in their territory have a plan for the assistance to the victims of civil aviation accidents and their relatives. Those plans must take particular account of psychological support for victims of civil aviation accidents and their relatives and allow the airline to react to a major accident. The Member States shall audit the assistance plans of the airlines established in their territory. Member States shall also encourage third-country airlines which operate in the Union to similarly adopt a plan for the assistance of victims of civil aviation accidents and their relatives.

3. When an accident occurs, the Member State in charge of the investigation, the Member State in which the airline, the aircraft of which was involved in the accident is established, or the Member State which had a large number of its nationals on board the aircraft involved in the accident, shall provide for the appointment of a reference person as a point of contact and information for the victims and their relatives.

4. A Member State or a third country, which, by virtue of fatalities or serious injuries to its citizens, has a special interest in an accident which has occurred in the territories of the Member States to which the Treaties apply, shall be entitled to appoint an expert who shall have the right to:

- (a) visit the scene of the accident;
- (b) have access to the relevant factual information, which is approved for public release by the safety investigation authority in charge, and information on the progress of the investigation;
- (c) receive a copy of the final report.

5. An expert appointed in accordance with paragraph 4 may assist, subject to applicable legislation in force, in the identification of the victims and attend meetings with the survivors of its State.

6. *Omitted.*

*Article 22*

**Access to documents and protection of personal data**

*Omitted.*

*Article 23*

**Penalties**

Member States shall lay down the rules on penalties applicable to infringements of this Regulation. The penalties provided for shall be effective, proportionate and dissuasive.

*Article 24*

**Amendment of the Regulation**

*Omitted.*

*Article 25*

**Repeals**

*Omitted.*

*Article 26*

**Entry into force**

*Omitted.*

ANNEX

**List of examples of serious incidents**

The incidents listed are typical examples of incidents that are likely to be serious incidents. The list is not exhaustive and only serves as guidance with respect to the definition of ‘serious incident’:

- a near collision requiring an avoidance manoeuvre to avoid a collision or an unsafe situation or when an avoidance action would have been appropriate,
- controlled flight into terrain only marginally avoided,
- aborted take-offs on a closed or engaged runway, on a taxiway, excluding authorised operations by helicopters, or from an unassigned runway,
- take-offs from a closed or engaged runway, from a taxiway, excluding authorised operations by helicopters, or from an unassigned runway,
- landings or attempted landings on a closed or engaged runway, on a taxiway, excluding authorised operations by helicopters, or from an unassigned runway,
- gross failures to achieve predicted performance during take-off or initial climb,
- fires and smoke in the passenger compartment, in cargo compartments or engine fires, even though such fires were extinguished by the use of extinguishing agents,
- events requiring the emergency use of oxygen by the flight crew,
- aircraft structural failure or engine disintegration, including uncontained turbine engine failures, not classified as an accident,
- multiple malfunctions of one or more aircraft systems seriously affecting the operation of the aircraft,
- flight crew incapacitation in flight,
- fuel quantity requiring the declaration of an emergency by the pilot,
- runway incursions classified with severity A according to the Manual on the Prevention of Runway Incursions (ICAO Doc 9870) which contains information on the severity classifications,
- take-off or landing incidents. Incidents such as undershooting, overrunning or running off the side of runways,
- system failures, weather phenomena, operation outside the approved flight envelope or other occurrences which could have caused difficulties controlling the aircraft,
- failure of more than one system in a redundancy system mandatory for flight guidance and navigation.

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.