
GENERAL NOTICE

NOTICE 20 OF 2010

PROPOSED AMENDMENT TO THE CIVIL AVIATION REGULATIONS, 1997

Under regulation 11.03.2(1)(a) of the Civil Aviation Regulations, the Chairperson of the Civil Aviation Regulations Committee (CARCOM) hereby publishes for comment the proposed amendments to the Civil Aviation Regulations, sub-regulation (3)1997, as set out in the schedules hereto. Any comments or representations on the proposed amendments should be lodged in writing with the Chairperson of the Regulations Committee, for attention Ms. Monica Sonjani or Mr. Herman Wildenboer, Private Bag 73 Halfway House, 1685, fax: (011) 545-1201, or e-mail at sonjanim@caa.co.za or wildenboerh@caa.co.za, before or on 11 February 2010.

SCHEDULE 1

PROPOSAL FOR THE AMENDMENT OF PART 12 OF THE CIVIL AVIATION REGULATIONS, 1997

PROPOSER:

South African Civil Aviation Authority
Private Bag X73
Halfway House
1685

PROPOSER'S INTEREST

The proposer has been established in terms of the South African Civil Aviation Act, 1998, (Act No. 40 of 1998), to control and regulate civil aviation in South Africa and to oversee the functioning and development of the civil aviation industry, and, in particular, to control, regulate and promote civil aviation safety and security.

GENERAL EXPLANATORY NOTE

Words in strike through indicate deletions from the existing regulations

Words underlined with a solid line indicate insertions in the existing regulations

1. PROPOSAL FOR THE SUBSTITUTION OF REGULATION 12.01.6 OF THE REGULATIONS

1.1 The following regulation is hereby substituted for regulation 12.01.6:

“Designation and Acceptance of an Accredited Representative

12.01.6 (1) The Commissioner may –

- (a) designate an accredited representative, for the purposes of investigating an accident or incident involving a South African registered aircraft in a territory of a contracting or non-contracting State; or
 - (b) accept the accreditation or appointment of an accredited representative of the State of Registry, State of the Operator, State of Design or State of Manufacture for the purposes of participating in investigating an accident or incident involving a South African or a foreign registered aircraft in the territory of the Republic.
- (2) The conditions and requirements for and the rules, procedures and standards connected with a designation or acceptance referred to, shall be as prescribed in Document SA-CATS-ACCID and INCID.
- (3) An accredited representative designated or accepted in terms of sub-regulation (1) may participate in the investigation of the accident or incident under the control of the investigator-in-charge.
- (4) An accredited representative designated or accepted in terms of sub-regulation (1) may, under the control of the investigator-in-charge –
- (a) visit the scene of the accident;
 - (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 readouts 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, cause or causes and safety recommendations; and
 - (i) make submissions in respect of the various elements of the investigation.
- (5) An accredited representative designated or accepted in terms of sub-regulation (1) shall not circulate, publish or give access to a draft report or any part thereof, or any documents obtained during an investigation of an accident or incident, without the express consent of the State which conducted the investigation, unless such reports or documents have already been published or released by the State conducting the investigation."

1.2 Motivation

The current regulation is not in line with the requirements of ICAO Annex 13 as it calls for the Commissioner to designate the Accredited Representative from other States. The CCA should only accept their designations from their states should they meet the requirements as stipulated in the CATS documents.

The objective of these provisions is to promote relations with foreign States in an event where South African registered aircrafts are involved in an occurrence in a foreign country. Participation of South Africa/SACAA in the investigation of those occurrences will speed up the process of investigation and victim identification.

This proposed regulation is an ICAO requirement and is not at present correctly stated in the regulations, and not clarifying it in CAR Part 12 will result in future findings by ICAO-AIG and/or FAA.

2. PROPOSAL FOR THE SUBSTITUTION OF REGULATION 12.01.7 OF THE REGULATIONS

2.1 The following regulation is hereby substituted for regulation 12.01.7:

“Designation of adviser”

12.01.7 (1) (a) ~~The Commissioner may, in consultation with the accredited representative designate an adviser for the purpose of assisting the an~~ accredited representative in the investigation of an accident or incident.

(b) The Commissioner may accept an adviser from the State of Registry, State of the Operator, State of Design or State of Manufacture for the purpose of assisting an accredited representative in the investigation of an accident or incident.

(2) An adviser designated in terms of sub-regulation (1) shall not circulate, publish or give access to a draft report or any part thereof, or any documents obtained during an investigation of an accident or incident, without the express consent of the State which conducted the investigation, unless such reports or documents have already been published or released by the State conducting the investigation.

~~(2) An adviser designated in terms of sub-regulation (1) may, under the control of the investigator in charge and the supervision of the accredited representative—~~

- ~~(a) visit the scene of the accident or incident;~~
- ~~(b) examine the wreckage;~~
- ~~(c) obtain information from witnesses and suggest areas for questioning;~~
- ~~(d) have access to all relevant evidence;~~
- ~~(e) receive copies of all relevant documents, books, notes, photographs, recordings and transcripts;~~
- ~~(f) participate in readouts 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, cause or causes and safety recommendations; and~~
- ~~(i) make submissions in respect of the various elements of the investigation.~~

~~(3) Should the Republic of South Africa be the State of Occurrence, the Commissioner may, in consultation with the investigator in charge, accept the designation or appointment of an adviser for the purpose of assisting the accredited representative in the investigation of an accident or incident.~~

(3)(4) The conditions and requirements for and the rules, procedures and standards connected with a designation referred to , shall be as prescribed in Document SA-CATS-ACCID and INCID.”.

2.2 Motivation

This proposed regulation is an ICAO requirement and is not at present included in the regulations, and not having it incorporated on CAR Part 12 will result on future findings by ICAO-AIG and/or FAA.

The objective of these specifications is to promote efficiency, effectiveness and quality of the investigation and reporting on factual information in an investigation.

3. PROPOSAL FOR THE INSERTION OF REGULATION 12.01.8 INTO THE REGULATIONS

3.1 The following regulation is hereby inserted after regulation 12.01.7:

“Designation of experts”

12.01.8 (1) The Commissioner may appoint an expert, where a citizen of the Republic of South Africa is fatally injured or has suffered serious injuries in an aircraft accident or incident involving a foreign registered aircraft in the territory of another State.

(2) The Commissioner shall inform the State of Occurrence of the intention to appoint experts to participate in the investigation of the occurrence.

(3) The Commissioner may accept the appointment of an expert from any State,,whose citizens were fatally injured or suffered serious injuries in a South African or a foreign registered aircraft accident or incident in the territory of the Republic.

(4) The expert referred to in sub-regulation (3) may,under the control of the investigator-in-charge :

- (a) visit the scene of the accident;
- (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 expert's State; and
- (e) receive a copy of the final report.

(5) An expert appointed in terms of sub-regulation (1) or accepted in terms of sub-regulation (3) shall not circulate, publish or give access to a draft report or any part thereof, or any documents obtained during an investigation of an accident or incident, without the express consent of the State which conducted the investigation, unless such reports or documents have already been published or released by the State conducting the investigation.

(6) The conditions, requirements, rules, procedures and standards connected with a designation or acceptance of an expert referred to in subregulations (1) and (3), shall be as prescribed in Document SA-CATS-ACCID and INCID.”.

3.2 Motivation

This proposed regulation is an ICAO requirement and is not at present included in the regulations, and not having it incorporated on CAR Part 12 will result in future findings by ICAO-AIG and/or FAA. The objective of these provisions is to promote relations with foreign States in an event where South African citizens are involved in an occurrence in a foreign country, or where the citizens of a foreign country are involved in an accident in SA. Participation of South Africa/SACAA on the investigation of those occurrences will speed up the process of investigation and victim identification.

4. PROPOSAL FOR THE INSERTION OF REGULATION 12.01.9 INTO THE REGULATIONS

4.1 The following regulation is hereby inserted after regulation 12.01.8:

“Powers of the Investigator in Charge or an Investigator

12.01.9 (1) In addition to any other power granted to or duty imposed on an Investigator in Charge (IIC) or an Investigator under any part of the regulations, such IIC or Investigator may –

- (a) enter any premises for the purpose of investigation of any aircraft, aircraft factory, aerodrome, civil aviation related facility, aircraft component, aircraft equipment, license, certificate, permit, approval, authorization, register, book or document which he or she believes to be on such premises;**
- (b) confiscate any thing, article, book, register, document, aircraft, aircraft component, aircraft equipment, license, certificate, permit, approval or authorizations, which he or she reasonably believes will assist in the investigation process;**
- (c) recommend to the Commissioner for the grounding of any aircraft which he or she reasonably believes to be unsafe, not duly registered or not airworthy;**
- (d) recommend to the Commissioner for the closure of any aviation related facility which he or she reasonably believes does not comply with the Act or the regulations;**
- (e) request the pilot of an aircraft to furnish his or her name and address and any other particulars concerning his or her identity;**
- (f) require any person on an aerodrome or in an aircraft, aircraft factory or civil aviation related facility to furnish his or her name and address and any other particulars concerning his or her identity and to furnish such information as is at his or her disposal concerning the identity of the pilot or owner of any aircraft, or the owner of any aerodrome, aircraft factory or civil aviation related facility;**