STATUTORY INSTRUMENTS

2018 No. 321

CIVIL AVIATION

The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018

Made - - - -	*5th March 2018*
Laid before Parliament	*15th March 2018*
Coming into force - -	*9th April 2018*

The Secretary of State is a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to air transport.

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 75(1) to (3) and 102(2) of, and Part II and paragraphs 4 and 6 of Part III of Schedule 13 to, the Civil Aviation Act 1982(**3**) and by section 2(2) of the European Communities Act 1972.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 and come into force on 9th April 2018.

Interpretation

2.—(1) In these Regulations—

"the Air Accidents Investigation Branch" means that part of the Department for Transport known by that name;

(**1**) S.I. 1993/2661, to which there are amendments not relevant to these Regulations.
(**2**) 1972 c.68. Section 2(2) was amended by section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7).
(**3**) 1982 c.16. Section 75 applies to aircraft belonging to or exclusively employed in the service of Her Majesty by virtue of S.I. 1959/1309.

"Annex 13" means Annex 13 (Aircraft Accident and Incident Investigation) to the Chicago Convention(**4**) as that Annex has effect from time to time;

"Chief Inspector" means the Chief Inspector of Air Accidents appointed under regulation 9;

"Inspector" means a person appointed as an Inspector of Air Accidents under regulation 9;

"Investigating Inspector" means the investigator-in-charge and any other Inspector who is assisting the investigator-in-charge with a safety investigation by virtue of paragraph (6) of regulation 9;

"investigator-in-charge" means a person charged, on the basis of that person's qualifications, with responsibility for the organisation, conduct and control of a safety investigation;

"Regulation 996/2010" means Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation(**5**) and repealing Directive 94/56/EC(**6**); and

"safety investigation" means a process conducted by the Air Accidents Investigation Branch for the purposes 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.

(2) In these Regulations the following words and expressions have the meanings given by Article 2 of Regulation 996/2010—

"accident";

"incident";

"person involved"; and

"serious incident".

(3) In these Regulations "aircraft" has the same meaning as in Regulation 996/2010.

Meaning of "act of unlawful interference" and "victim"

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

(a) subsection (1) of section 1 (hijacking) of the Aviation Security Act 1982(**7**) ("the 1982 Act"), but as if subsection (2) of that section (and the reference to subsection (2) in subsection (1)) was omitted;

(b) subsection (1) or (2) of section 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)) was omitted; or

(c) subsection (1) or (3) of section 3 (other acts endangering or likely to endanger safety of aircraft) of the 1982 Act, but as if subsections (5) and (6) of that section (and the references to subsections (5) and (6) in subsection (1) and the reference to subsection (5) in subsection (3)) were omitted.

(**4**) See definition of "the Chicago Convention" in section 105 of the Civil Aviation Act 1982. The latest edition of Annex 13, which is published by the International Civil Aviation Organization, is the 11th edition, which applied from 10th November 2016 (ISBN 978-92-9249-968-6).

(**5**) OJ No L 295, 12.11.2010, p35, amended by Regulation (EU) No 376/2014 of the European Parliament and of the Council (OJ No L 122, 24.4.2014, p18). Regulation 996/2010 has been extended to the European Economic Area by the Decision of the EEA Joint Committee No 95/2014 (OJ No L 310, 20.10.2014, p60). It applies to Switzerland by virtue of Decision No 2/2014 of the Joint European Union/Switzerland Air Transport Committee (OJ No L 373, 31.12.2014, p24).

(**6**) OJ No L 319, 12.12.1994, p14.

(**7**) 1982 c.36.

(2) For the purposes of paragraphs 4 and 5 of Article 15 of Regulation 996/2010, "victim" means any person who suffers a fatal injury or a serious injury in any of the circumstances described in sub-paragraph (1)(a) of Article 2 of that Regulation.

(3) In paragraph (2) "fatal injury" and "serious injury" have the meanings given by Article 2 of Regulation 996/2010.

Service of notices and other documents

4.—(1) Any notice or other document required or authorised by these Regulations 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 regulation, "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.

Revocations

5. The following Regulations are revoked—

(a) the Civil Aviation Act (Investigation of Accidents) Regulations 1996(**8**);

(b) the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996(**9**);

(c) the Civil Aviation (Investigation of Military Air Accidents at Civil Aerodromes) Regulations 2005(**10**).

Amendment of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

6.—(1) Regulation 14 of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013(**11**) is amended as follows.

(2) In paragraph (6) of that regulation, omit sub-paragraph (d) and for sub-paragraph (g) substitute —

"(g) Article 9 of Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC."

(**8**) S.I. 1996/76.
(**9**) S.I. 1996/2798, amended by the Police (Northern Ireland) Act 2000 (2000 c.32), section 78 and by S.I. 1997/2971 and S.I. 2004/1256.
(**10**) S.I. 2005/2693.
(**11**) S.I. 2013/1471, to which there are amendments not relevant to these Regulations.

Safety investigation authority and accident investigation authority

7. The Air Accidents Investigation Branch continues to be designated as—

(a) the safety investigation authority for the United Kingdom for the purposes of Article 4 of Regulation 996/2010; and

(b) the accident investigation authority for the United Kingdom for the purposes of Annex 13.

Objective of a safety investigation

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

Inspectors of Air Accidents

9.—(1) For the purposes of carrying out safety investigations, the Secretary of State must appoint persons to work for the Air Accidents Investigation Branch as Inspectors of Air Accidents.

(2) The Secretary of State must appoint one such Inspector as the Chief Inspector of Air Accidents.

(3) The Chief Inspector must appoint another such Inspector as the Deputy Chief Inspector of Air Accidents.

(4) Any of the Chief Inspector's powers and obligations under these Regulations may be exercised or discharged by the Deputy Chief Inspector where the Chief Inspector so directs.

(5) Where a safety investigation is required or permitted by Regulation 996/2010, Annex 13 or by these Regulations, the investigator-in-charge is the Chief Inspector or any other Inspector selected by the Chief Inspector for that purpose.

(6) The Chief Inspector may determine that the investigator-in-charge shall be assisted by one or more Inspectors.

Power to investigate

10.—(1) Notwithstanding the obligations to investigate imposed by paragraphs 1 and 2 of Article 5 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 these Regulations where—

(a) an accident, a serious incident or any other incident occurs in or over the United Kingdom;

(b) that accident, serious incident or incident involves any aircraft, including—

(i) an aircraft to which the obligation in paragraph 1 of Article 5 of Regulation 996/2010 does not apply; or

(ii) 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 regulation "similar services" has the same meaning as in paragraph 3 of Article 3 of Regulation 996/2010.

Obligation to investigate accidents and serious incidents occurring outside the United Kingdom

11.—(1) Insofar as it is practicable to do so, the Chief Inspector must cause a safety investigation to be conducted in accordance with Annex 13 and these Regulations where—

(a) an accident or serious incident occurs in or over a country or territory other than the United Kingdom or any other Contracting State;

(b) the accident or serious incident involves an aircraft in respect of which the United Kingdom is—

(i) the State of Registry;

(ii) the State of the Operator;

(iii) the State of Design; or

(iv) the State of Manufacture; and

(c) an investigation is not conducted by another State.

(2) In this regulation—

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

"investigation" (in sub-paragraph (c) of paragraph (1) only) means a process conducted, other than by the Air Accidents Investigation Branch, for the purposes 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; and

"State of Registry", "State of the Operator", "State of Design" and "State of Manufacture" have the meanings given by Chapter 1 of Annex 13.

Additional provisions – Inspectors' powers

12.—(1) The power conferred by subparagraph (f) (power to call and examine witnesses) of paragraph 2 of Article 11 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 Secretary of State.

13. 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 paragraph 2 of Article 11 of Regulation 996/2010, until the completion of the safety investigation.

14.—(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;