

CAYMAN ISLANDS



Supplement No. 2 published with Gazette No. 5 dated 3
March, 2008.

**THE CIVIL AVIATION ACT 1982 (OVERSEAS TERRITORIES) ORDER
2001, S.I. 2001 NO. 1452**

**THE CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND
INCIDENTS) REGULATIONS, 2007**

**THE CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND
INCIDENTS) REGULATIONS, 2007**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

1. Citation.
2. Interpretation.
3. Applicability.

PART II – INVESTIGATIONS

4. Purpose of the investigation of accidents and incidents.
5. Duty to furnish information relating to accidents and incidents.
6. Publication of information.
7. Removal of damaged aircraft.
8. Inspectors of air accidents.
9. Powers of inspectors.
10. Form and conduct of investigations.
11. Inspector's report.
12. Notice of inspector's report and representations concerning it.
13. Publication of reports.
14. Safety recommendations.
15. Re-opening of investigation.
16. Accredited representatives.

PART III – MISCELLANEOUS

17. Obstruction of investigation.
18. Disclosure of relevant records.
19. Delegation of Governor's powers and functions.
20. Service of documents.
21. Repeal and saving.

CAYMAN ISLANDS

**THE CIVIL AVIATION ACT 1982 (OVERSEAS TERRITORIES) ORDER
2001, S.I. 2001 NO. 1452**

**THE CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS AND
INCIDENTS) REGULATIONS, 2007**

The Governor, in exercise of the powers conferred by section 75 of the Civil Aviation Act 1982, as extended to the Cayman Islands by the provisions of Article 4 of the Civil Aviation Act 1982 (Overseas Territories) Order 2001 and modified as set out in Schedule 1 to that Order, makes the following regulations -

PART I – PRELIMINARY

1. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2007. Citation

2. In these Regulations – Interpretation

“accident” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and the time all such persons have disembarked, and in which –

- (a) a person is fatally or seriously injured as a result of –
 - (i) being in or on the aircraft;
 - (ii) direct contact with any part of the aircraft, including a part which has become detached from the aircraft; or
 - (iii) 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;
- (b) the aircraft sustains damage or structural failure which –
 - (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and

- (ii) would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories, or for damage limited to propellers, wing tips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin; or
- (c) the aircraft is missing or is completely inaccessible;

“Annex” means Annex 13 to the Chicago Convention on International Civil Aviation, signed in Chicago on 7th December, 1944, as amended;

“causes”, in relation to an accident or incident, means actions, omissions, events or conditions, or a combination thereof, which led to the accident or incident;

“civil aircraft” means any aircraft (including, balloons, gliders, airships, flying boats, sea planes, helicopters and aeroplanes) other than military aircraft, that is to say, naval, military or air force aircraft and aircraft commanded by a person in naval, military or air force service detailed for the purpose;

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator thereof or, where no person is so designated, the person who is for the time being the pilot in command of the aircraft;

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

“crew” includes every person employed or engaged in an aircraft in flight on the business of the aircraft;

“fatal injury” means an injury which is sustained by a person in an accident and which results in his death within thirty days of the date of the accident;

“incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or is relevant to the safety of its operation;

“inspector” means a person appointed as an Inspector of Air Accidents under regulation 8;

“investigating inspector” means an inspector carrying out an investigation pursuant to these Regulations;

“investigation”, in relation to an accident or incident, includes the gathering and analysis of information, the drawing of conclusions, the determination of the

causes of the accident or incident and, when appropriate, the making of safety recommendations;

“operator” means any person, body or undertaking operating or proposing to operate one or more aircraft;

“owner”, where an aircraft is registered, means the registered owner;

“pilot in command”, in relation to an aircraft, means a person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;

“serious incident” means an incident involving circumstances indicating that an accident nearly occurred;

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

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

“undertaking” means any natural person or any legal person, whether profit-making or not, or any official body whether having its own legal personality or not.

3. (1) These Regulations apply in relation to any accident or incident arising out of the operation of a civil aircraft and - Applicability

- (a) occurring in or over the Islands; or
- (b) occurring outside the Islands to any aircraft registered in the Islands.

(2) For the purposes of these Regulations, “the Islands” includes the territorial waters adjacent to the Cayman Islands.

PART II – INVESTIGATIONS

Purpose of the investigation of accidents and incidents

4. The purpose of investigating accidents and incidents in accordance with these Regulations shall be to determine the circumstances and causes of accidents and incidents with a view to preventing future accidents and incidents, and not to ascribe blame or liability to any person.

Duty to furnish information relating to accidents and incidents

5. (1) Where an accident or serious incident occurs in respect of which, by virtue of regulation 8, an investigation is required to be carried out, the relevant person and, in the case of an accident or a serious incident occurring on or adjacent to an aerodrome, the aerodrome authority shall forthwith give notice thereof to the Governor by the quickest means of communication available and, in the case of an accident or serious incident occurring in or over the Islands, shall also forthwith give to a constable at the police station nearest to where the accident or serious incident occurred, notice of the accident or serious incident and of the place where it occurred.

(2) In paragraph (1) –

“aerodrome authority” means the person by whom an aerodrome is managed;

“relevant person” means –

- (a) in the case of an accident or serious incident –
 - (i) occurring in or over the Islands; or
 - (ii) occurring elsewhere but involving an aircraft registered in the Islands,
the commander of the aircraft involved at the time of the accident or serious incident or, if he be killed or incapacitated, the operator of the aircraft; and
- (b) in the case of a serious incident occurring in or over any country or territory other than a Contracting State to an aircraft registered elsewhere than in the Islands but operated by an undertaking established in the Islands, that undertaking.

(3) The notice to the Governor referred to in paragraph (1) shall contain as much of the following information as is available –

- (a) in the case of an accident, the identifying abbreviation “ACCID” or, in the case of a serious incident, the identifying abbreviation “INCID”;
- (b) the type, model and the nationality and registration marks of the aircraft and its manufacturer’s serial number (if known);
- (c) the name of the owner, operator and hirer (if any) of the aircraft;
- (d) the name of the commander of the aircraft;

- (e) the date and Co-ordinated Universal Time of the accident or serious incident, including conditions of light (for example, day, dusk, dark, moon and dawn);
 - (f) the last point of departure and the next point of intended landing of the aircraft;
 - (g) the place where the accident or serious incident occurred by reference to some easily defined geographical point and latitude and longitude;
 - (h) the number of crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident -
 - (i) the number of them killed or seriously injured;
 - (ii) the number of them sustaining injuries other than serious injuries; and
 - (iii) the number of them uninjured;
 - (i) the number of passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident -
 - (i) the number of them killed or seriously injured;
 - (ii) the number of them sustaining injuries other than serious injuries; and
 - (iii) the number of them uninjured;
 - (j) in the case of an accident, the number of other persons killed or seriously injured as a result of the accident; and
 - (k) a brief description of the accident or serious incident as far as is known, including –
 - (i) the nature of the accident or serious incident;
 - (ii) the extent of damage to the aircraft; and
 - (iii) the extent of damage to other property.
- (4) Where an incident, other than a serious incident –
- (a) takes place in or over the Islands; or
 - (b) takes place otherwise than in or over the Islands but involves an aircraft registered in the Islands,

the owner, operator, commander or hirer of the aircraft shall, if so required by notice given to him by the Governor, send to the Governor such information as is in his possession or control with respect to the incident within such time as may be specified in the notice.

6. Subject to the provisions of regulations 11(5)(b) and 18, the Governor may at any time publish, or cause to be published, information relating to an accident or incident whether or not such accident or incident is the subject of an investigation by an inspector.

Publication of
information

Removal of damaged
aircraft

7. (1) Subject to paragraphs (2) and (3) and regulation 9, where an accident or a serious incident which results in the withdrawal from service of an aircraft, occurs in or over the Islands, no person other than an authorised person shall have access to the aircraft involved and neither the aircraft nor its contents shall, except under the authority of the Governor, be removed or otherwise interfered with.

(2) The aircraft may be removed or interfered with so far as may be necessary for the purpose of –

- (a) extricating persons or animals;
- (b) removing any mail, valuables or dangerous goods carried by the aircraft;
- (c) preventing destruction by fire or other cause;
- (d) preventing any danger or obstruction to the public, air navigation or other transport; or
- (e) removing any other property from the aircraft under the supervision of an inspector or with the agreement of an inspector or of a constable.

(3) If an aircraft is wrecked on water, the aircraft or any of its contents may be removed to such extent as may be necessary for bringing it or them to a place of safety.

(4) In this regulation, “authorised person” means –

- (a) a person authorised by the Governor either generally or specially to have access to any aircraft involved in an accident or serious incident;
- (b) a constable above the rank of sergeant; or
- (c) a customs officer.

Inspectors of air
accidents

8. (1) For the purpose of carrying out investigations into accidents and incidents to which these Regulations apply, the Governor shall appoint persons as Inspectors of Air Accidents.

(2) Subject to paragraphs (4) and (5), the Governor shall carry out, or cause an inspector to carry out, an investigation into –

- (a) accidents and serious incidents which occur in or over the Islands;
- (b) accidents and serious incidents which –
 - (i) occur in or over any country or territory which is not a Contracting State; and
 - (ii) involve aircraft registered in the Islands,

when such an investigation is not carried out by another Contracting State;

- (c) serious incidents which –
 - (i) occur in or over any country or territory which is not a Contracting State; and
 - (ii) involve aircraft registered elsewhere than in the Islands but operated by an undertaking established in the Islands, when such an investigation is not carried out by another Contracting State; and
- (d) accidents and serious incidents to aircraft registered in the Islands in the circumstances described in paragraph 5.3 of the Annex.

(3) Subject to paragraphs (4) and (5), the Governor may, when he expects to draw air safety lessons from it, carry out, or cause an inspector to carry out, an investigation into an incident, other than a serious incident, which –

- (a) occurs in or over the Islands; or
- (b) occurs otherwise than in or over the Islands but involves an aircraft registered in the Islands.

(4) The Governor may delegate the task of carrying out an investigation into an accident or an incident to another Contracting State in accordance with paragraphs 5.1, 5.1.1 or 5.3 of the Annex.

(5) Where the Governor delegates the task of carrying out an investigation pursuant to paragraph (4), he shall so far as he is able facilitate inquiries by the investigator appointed by the relevant Contracting State.

(6) The Governor may carry out, or cause an inspector to carry out, an investigation into an accident or incident where the task of carrying out the investigation has been delegated to the Islands by a Contracting State in accordance with paragraphs 5.1, 5.1.1 or 5.3 of the Annex.

(7) Without prejudice to the power of an inspector to seek such advice or assistance as he may deem necessary in making an investigation, the Governor may appoint persons to assist an inspector in a particular investigation and such persons shall for that purpose have such of the powers of an inspector under these Regulations as may be specified in their appointment.

(8) In any case where the Governor causes more than one inspector to carry out an investigation, he shall nominate one of them to be in overall charge of the investigation, and in such a case a reference in these Regulations to the investigating inspector shall be construed as a reference to the one so nominated.

Powers of inspectors

9. (1) For the purpose of enabling him to carry out an investigation into an accident or incident in the most efficient way and within the shortest time, an investigating inspector –

- (a) shall have free and immediate access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;
- (b) shall have free and immediate access to and use of –
 - (i) the contents of the flight recorders and any other recordings;
 - (ii) any relevant information or records held by the owner, the operator or the manufacturer of the aircraft and by the authorities responsible for civil aviation or airport operation;
 - (iii) the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;
 - (iv) the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people; and
- (c) may ensure an immediate listing of evidence and controlled removal of debris, or components for examination or analysis purposes; and
- (d) may examine witnesses.

(2) For the purpose of paragraph (1), an investigating inspector shall have power –

- (a) by summons under his hand to call before him and examine all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce any documents or articles which the investigating inspector may consider relevant and to retain any such documents and articles until the completion of the investigation;
- (b) to take statements from all such persons as he thinks fit and to require any such person to make and sign a declaration of the truth of the statement made by him;
- (c) on production if required of his credentials, to enter and inspect any place, building or aircraft the entry or inspection whereof appears to the investigating inspector to be requisite for the purposes of the investigation;
- (d) on production if required of his credentials, to remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to the investigating inspector requisite for the purposes of the investigation, and
- (e) to take such measures for the preservation of evidence as he considers appropriate.

(3) In paragraph (2)(a), “documents” includes any books, papers, maps, charts or other written or graphic material of any kind.

(4) Every person summoned by an investigating inspector under paragraph (2)(a) shall be allowed such expenses as the Governor may determine.

10. The extent of investigations, and the procedure to be followed in carrying out investigations, required or authorised under these Regulations shall be determined by the Governor, taking account of the purpose described in regulation 4 and the lessons he expects to draw from the accident or incident for the improvement of safety.

Form and conduct of investigations

11. (1) On completion of an investigation into an accident or incident, the investigating inspector shall prepare a report of the investigation in a form appropriate to the type and seriousness of the accident or incident.

Inspector's report

(2) If it appears to the investigating inspector that the investigation of any accident or incident –

- (a) involving a collision between a civil aircraft and a military aircraft; or
- (b) occurring while a civil aircraft was on, or in the course of taking off from or landing on, an aerodrome controlled by the naval, military or air forces of any country,

has been completed but for the investigation of matters affecting the discipline or internal administration of any of those forces which are more appropriate for the investigation by some other person or body, the investigation may be treated for the purposes of paragraph (1) as if it had been completed without such matters being investigated under these Regulations; and, in such a case, the report of the investigation into the accident or incident shall state those matters to which the investigation has not extended by reason of this paragraph.

(3) The report of an investigation into an accident shall state the sole objective of the investigation as described in regulation 4 and, where appropriate, contain safety recommendations.

(4) The investigating inspector shall submit a copy of every report prepared pursuant to paragraph (1) to the Governor without delay.

(5) The report of an investigation into an incident shall –

- (a) where appropriate, contain relevant safety recommendations;
- (b) protect the anonymity of the persons involved in the incident; and

- (c) be circulated by the investigating inspector to the parties likely to benefit from its findings with regard to safety.

(6) A safety recommendation shall in no case create a presumption of blame or liability for an accident or incident.

Notice of inspector's
report and
representations
concerning it

12. (1) No report which is required by regulation 13 to be published shall be so published if, in the investigating inspector's opinion, it is likely to affect adversely the reputation of any person, until the investigating inspector has –

- (a) where it appears to him to be practicable so to do, served a notice under this regulation upon that person, or if that person is a deceased individual, upon the person who appears to him, at the time he proposes to serve notice pursuant to this paragraph, to represent best the interest of the deceased in the matter; and
- (b) made such changes to the report as he thinks fit following his consideration of any representations made to him in accordance with paragraph (3) by or on behalf of any person served with such notice.

(2) The notice referred to in paragraph (1)(a) shall include particulars of any proposed analysis of facts and conclusions as to the cause or causes of the accident or incident which may affect the person on whom or in respect of whom the notice is served.

(3) Any representations made pursuant to paragraph (1)(b) shall be in writing and shall, subject to paragraph (6), be served on the investigating inspector within twenty-eight days of service of the notice referred to in paragraph (1)(a).

(4) A copy of the report submitted to the Governor under regulation 11(4) shall be served by the investigating inspector on any person who has been served with a notice pursuant to paragraph (1).

(5) No person shall disclose or permit to be disclosed any information contained in a notice or report served on him pursuant to paragraph (1) or (4) to any other person without the prior consent in writing of the Governor.

(6) The Governor shall have power to extend the period of twenty-eight days prescribed in paragraph (3) and this power shall be exercisable notwithstanding that that period has expired.

Publication of reports

13. Subject to regulation 12, the Governor shall cause the report of an investigation into an accident or incident, other than an incident the investigation of which has been delegated to the Islands by any State, to be made public in the

shortest time possible (and, if possible, within twelve months of the date of the accident or serious incident) and in such manner as he thinks fit.

14. (1) The Governor shall cause a report referred to in regulation 13, including any not required to be published and including the safety recommendations contained therein, to be communicated to the undertakings or national aviation authorities concerned. Safety recommendations

(2) Any undertaking or authority to which a safety recommendation is communicated pursuant to paragraph (1) shall, without delay –

- (a) take that recommendation into consideration and, where appropriate, act upon it;
- (b) send to the Governor –
 - (i) full details of the measures, if any, it has taken or proposes to take to implement the recommendation and, in a case where it proposes to implement measures, the timetable for securing that implementation; or
 - (ii) a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and
- (c) give notice to the Governor if at any time any information provided to the Governor in pursuance of subparagraph (b)(i) concerning the measures it proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

15. (1) The Governor may cause the investigation of any accident or incident to be reopened and shall do so – Re-opening of investigation

- (a) if, after the completion of the investigation, evidence has been disclosed which is in his opinion both new and important; or
- (b) if for any other reason there is in his opinion ground for suspecting that the reputation of any person has been unfairly and adversely affected.

(2) Any investigation re-opened shall be subject to and conducted in accordance with the provisions of these Regulations.

16. (1) Where an investigation of an accident or serious incident is being carried out by an investigating inspector pursuant to regulation 8, an accredited representative appointed by – Accredited representatives

- (a) the State of registry;
- (b) the State of design;
- (c) the State of manufacture;
- (d) the State of the operator; or

- (e) a Contracting State which has, on request, furnished information, facilities or experts to the investigating inspector in connection with the accident or serious incident,

may take part in the investigation, that is to say, he shall be permitted to visit the scene of the accident, examine the wreckage, question witnesses, receive copies of all pertinent documents (saving all such just exceptions as may be determined by the investigating inspector), have access to all relevant evidence and make submissions; and he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the country or territory by which he is appointed.

(2) In this regulation, “accredited representative”, “State of registry”, “State of design”, “State of manufacture” and “State of the operator” have the meanings respectively ascribed to them in Chapter 1 of the Annex.

PART III – MISCELLANEOUS

Obstruction of investigation

17. (1) No person shall obstruct or impede an inspector or any person acting under the authority of the Governor in the exercise of any powers or duties under these Regulations.

(2) No person shall without reasonable excuse fail, after having had the expenses (if any) to which he is entitled under these Regulations tendered to him, to comply with any summons of an inspector holding an investigation.

Disclosure of relevant records

18. (1) Subject to paragraphs (2), (4), (5) and (6), no relevant record shall be made available by the Governor to any person for purposes other than accident or incident investigation.

(2) Nothing in paragraph (1) shall preclude the Governor from making a relevant record available to any person where, in a case where that person is a party to or otherwise entitled to appear at judicial proceedings, the court has ordered that the relevant record shall be made available to him for the purpose of those proceedings.

(3) Subject to paragraph (5), no order shall be made under paragraph (2) unless the court is satisfied that the interests of justice in the judicial proceedings in question outweigh any adverse domestic or international impact which disclosure may have on the investigation into the accident or incident to which the record relates or any future accident or incident investigation undertaken in the Islands.

(4) A relevant record or part thereof shall not be treated as having been made available contrary to paragraph (1) in any case where that record or part is included in the report (or the appendices to the report) of the accident or incident.

(5) The provisions of this regulation shall be without prejudice to any rule of law which authorises or requires the withholding of any relevant record or part thereof on the ground that the disclosure of it would be injurious to the public interest.

(6) In this regulation, “relevant record” means any item in the possession, custody or power of the Governor which is of a kind referred to in subparagraphs (a) to (e) of paragraph 5.12 of the Annex.

19. The Governor may arrange for any of his powers, functions and obligations under these Regulations to be performed on his behalf by the Director-General of Civil Aviation.

Delegation of
Governor's powers and
functions

20. Any notice or other document required or authorised by any provision of these Regulations to be served on or given to any person may be served or given –

Service of documents

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known place of abode or business, whether in the Islands or elsewhere;
- (c) by sending it to him by post at his last-known postal address; or
- (d) by sending it, to an address notified or disclosed by him, by telex, by facsimile transmission or other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as served when it is received.

21. (1) The Civil Aviation (Investigation of Accidents) Regulations, 1971 are hereby repealed.

Repeal and saving

(2) The former Regulations shall be deemed to continue to apply to any investigation which, immediately before the commencement of the new Regulations, had been commenced but not completed under the former Regulations; and any such investigation shall be completed in accordance with the former Regulations as if the new Regulations had not been made.

(3) In this regulation –

“former Regulations” means the Civil Aviation (Investigation of Accidents) Regulations, 1971, revoked by paragraph (1); and

“new Regulations” means the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2007.

Made the 30th day of December, 2007.

STUART JACK

GOVERNOR OF THE CAYMAN ISLANDS