

STATES OF JERSEY



DRAFT AIR NAVIGATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS ON JERSEY REGISTERED AIRCRAFT) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 2nd June 2015
by the Minister for External Relations**

STATES GREFFE



Jersey

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REPORT

Introduction

The Draft Air Navigation (Investigation of Air Accidents and Incidents on Jersey Registered Aircraft) (Jersey) Regulations 201- introduce an obligation on the Government of Jersey to carry out aircraft accident investigations in respect of an accident or incident on an aircraft registered in Jersey under the Aircraft Registration (Jersey) Law 2014 in the same manner as it applies to an accident or incident occurring on any aircraft in or over Jersey in line with the existing Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000. This Regulation arises from international obligations enshrined in the International Convention on Civil Aviation, known as the Chicago Convention 1944, as amended.

These Regulations form part of the requirements which enable aircraft to be registered in Jersey, and provide for the Bailiff to appoint a person as Chief Inspector from the United Kingdom's Air Accident Investigation Branch of the Department for Transport, in cases of accidents or incidents.

Background

The International Convention on Civil Aviation obliges Signatory States, including States of registry and operation of civil aircraft, to meet specific obligations with respect to the safety of flight, including navigation of civil aircraft. Signatory States are obliged to set standards by implementing civil aviation safety regulations as a consequence of which the State is afforded mutual recognition and facilitation in matters of civil aviation by other Signatory States. Article 26 of the Convention requires that States facilitate the investigation of accidents and incidents. The standards of conduct of accident and incident investigation are set out in an Annex to the Convention – Annex 13 – Aircraft Incident and Accident investigation.

The formal investigation of civil aviation accidents and incidents is recognised as a key component of the setting and maintaining of safety in civil aviation. Where necessary, each investigation leads to the identification of key risk and causal factors which may have contributed to the accident, and these recommendations usually have consequences, not only for the primary State concerned, but also internationally, since civil aviation is a highly interactive international community.

Principles of Incident and Accident Investigation

The standards required of accident and incident investigation, reporting and subsequent recommendations to correct any associated systemic malfunctions, in both the aircraft itself and/or the processes associated with the management of civil aviation safety, are set out in Annex 13 to the Convention on Civil Aviation. It is generally recognised and accepted however, that not all States will have the resources to manage such investigations themselves. Accident investigation in particular is usually very time-consuming and requires access to highly qualified technical resources, as a consequence of which, many States have contracts with partner States in order to manage the obligations. A key component of accident and incident investigation is the empowerment of the investigation person or team and, as such, these empowerment and access rights are obligatory and need to be set out in Regulations. Accident investigation can also be very expensive and, as such, many States see the need to insure themselves against the unforeseen costs involved.

It is usual to separate out the investigation of accidents and incidents from the normal role of civil aviation safety oversight to ensure a reasonable degree of impartiality (since it is possible that the State safety regulatory system itself could be a causal factor). Usually, the investigation report and recommendations are directed to the Minister responsible for aviation activities within the State concerned.

Civil aviation accident and incident investigation carried on in an exemplary fashion are a key component of a State's safety management system and, as such, are usually considered to be very significant in matters concerning not only International obligations but the reputation of the State amongst its peers. Such standards commence with the implementation of sustainable Regulations.

Compliance

The Government of Jersey is bound to meet the International Standards set out in the Convention and, as such, must set out the means by which they comply by setting appropriately applicable and effective Regulations in the form of the Air Navigation (Investigation of Air Accidents and Incidents on Jersey Registered Aircraft) (Jersey) Regulations 2015.

Although the Government of Jersey is not a Signatory State (the UK Government fulfils this function), Jersey is to become a state of Registry and Operation and, as such, is obliged by the arrangements with the UK Government (as a Crown Dependency) to set appropriate standards by Regulation.

Enforcement and Sanctions

Aviation safety regulations, including accident and incident investigations such as the draft Regulations, are a public manifestation of commitment on the part of a State.

In addition, it is necessary to ensure that civil aviation safety oversight is being managed in an appropriate fashion, including the setting and implementation of applicable and effective civil aviation safety Regulations, which meet international expectations. The standards may come under the scrutiny of international organisations such as the International Civil Aviation Organisation (ICAO) and the European Commission (EC).

ICAO is tasked with carrying out audit and assessment functions on all Signatory States, including their various dependencies. The EC has been increasingly active in the setting of EU Regulations which empower the EC to investigate the standards of States using EU airspace (whether landing rights are conferred on the operator or not). The EC assessment starts with an assessment of the obligation of States to implement

civil aviation safety regulations which are compliant with the obligations of Signatory States.

Although ICAO has not imposed sanctions itself, the listing by ICAO of failures in a Government's regulation of civil aviation safety oversight would reflect poorly on the jurisdiction (and hence its International reputation in a wider sense). EU countries must ensure that air carriers and aircraft operators comply with Regulation EC 785/2004 and, as a third country, the Jersey Aircraft Registry must ensure that aircraft flown into and out of the EU have the minimum insurance cover.

The EC has imposed sanctions both on States themselves and individual operators. The sanctions usually take the form of a ban on operation within EU Member State airspace. Any such ban is publicly gazetted and reflects poorly on the reputation of the Government concerned.

Financial and manpower implications

There are no manpower implications arising from the adoption of the draft Regulations.

The Government of Jersey has secured a cost-effective pooled insurance policy with both Guernsey and the Cayman Islands, which will come into force at the same time as the Jersey Aircraft Registry goes live.

Explanatory Note

These Regulations provide for the provisions of the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 (the “2000 Order”), except Article 7 of that Order, to apply in respect of an accident or incident –

- (a) which occurs otherwise than in or over Jersey; and
- (b) on an aircraft registered in Jersey under the Aircraft Registration (Jersey) Law 2014,

in the same manner as they apply to an accident or incident associated with an aircraft and which takes place or occurs in or over Jersey (*Regulation 1(1)*).

For the purposes of *Regulation 1*, the terms “accident” and “incident” have the meanings given under Article 2(1) of the 2000 Order but only to the extent that such accident or incident, as the case may be, occurs on an aircraft registered in Jersey (*Regulation 1(2)*).

The 2000 Order gives effect to Annex 13 of the Chicago Convention and implements Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principals governing the investigation of civil aviation accidents and incidents (OJ No. L319, 12.12.94, p.1).

The sole objective of the 2000 Order is the prevention of accidents and incidents and not to apportion blame or liability and its applicable provisions provide for –

- (a) the Bailiff to appoint Inspectors of Air Accidents and a Chief Inspector of Air Accidents for Jersey to investigate accidents and incidents occurring in or over Jersey;
- (b) the imposition of a duty on a relevant person (the commander of the aircraft or, in the event that the commander is killed or incapacitated, the operator of the aircraft) to furnish information relating to accidents and incidents to the Chief Inspector of Air Accidents;
- (c) the powers of investigating Inspectors which include free access to the site of an accident and incident as well as the power to summon and examine persons;
- (d) the form and conduct of investigations required or authorized under the Order;
- (e) the preparation of a report of an investigation by the investigating Inspector and the publication of the report; and
- (f) other matters including, the reopening of investigations, prevention of obstruction of inspectors and disclosure of records.

Regulation 2 provides for the citation of the Regulations and provides for them to come into force on the same day that the Aircraft Registration (Jersey) Law 2014 comes into force.



Jersey

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Arrangement

Regulation

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DRAFT AIR NAVIGATION (INVESTIGATION OF AIR ACCIDENTS AND INCIDENTS ON JERSEY REGISTERED AIRCRAFT) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Article 180(b) of the Air Navigation (Jersey) Law 2014¹, have made the following Regulations –

1 Application of certain provisions the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000

- (1) Subject to paragraph (2), the provisions of the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000², except Article 7 of that Order, shall apply in respect of an accident or incident which occurs –
- (a) otherwise than in or over Jersey; and
 - (b) on an aircraft registered in Jersey under the Aircraft Registration (Jersey) Law 2014³,
- in the same manner as they apply to an accident or incident which takes place or occurs in or over Jersey.
- (2) For the purposes of this Regulation “accident” and “incident” have the meaning given to them under Article 2(1) of the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 but only to the extent that such accident or incident, as the case may be, occurs on board an aircraft.

2 Citation and commencement

These Regulations may be cited as Air Navigation (Investigation of Air Accidents and Incidents on Jersey Registered Aircraft) (Jersey) Regulations 201- and shall come into force on the same day that the Aircraft Registration (Jersey) Law 2014⁴ comes into force.

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- ¹ *chapter 03.250*
 - ² *chapter 03.525*
 - ³ *L.23/2014*
 - ⁴ *L.23/2014*