

2000 No. 1345

CIVIL AVIATION

**The Civil Aviation (Investigation of Air Accidents and
Incidents) (Jersey) Order 2000**

Made - - - - *17th May 2000*
Coming into force *1st June 2000*

At the Court at Buckingham Palace, the 17th day of May 2000

Present,

The Queen's Most Excellent Majesty in Council

ARRANGEMENT OF ARTICLES

- 1-3. Citation, commencement, interpretation and application
4. Purpose of the investigation of accidents and incidents
- 5-6. Duty to furnish information relating to accidents and incidents
7. Removal of damaged aircraft
8. Inspectors of Air Accidents
9. Powers of Inspectors
10. Form and conduct of investigations
11. Inspector's Report
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15. Reopening of Investigation
16. Accredited representatives
17. Obstruction of Investigation
18. Disclosure of relevant records
19. Revocation

Her Majesty, in exercise of the powers conferred upon Her by sections 75 and 102(2) of, and paragraph 4 of Part III of Schedule 13 to, the Civil Aviation Act 1982(a), as extended to the Bailiwick of Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990(b), is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement, interpretation and application

1. This Order may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 and shall come into force on 1st June 2000.

2.—(1) In this Order, unless the context otherwise requires—

“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 until such time as all such persons have disembarked, in which—

(a) a person suffers a fatal or serious injury as a result of—

- being in or upon the aircraft,
- being in 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 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;

“aerodrome authority” means, in relation to any aerodrome, the person by whom the aerodrome is managed;

“the Annex” means Annex 13 to the Chicago Convention as amended on 23rd March 1994(c);

“the Bailiff” means the Bailiff of Jersey;

“Chief Inspector” means the Chief Inspector of Air Accidents for Jersey appointed under article 8 below;

“commander” in relation to an aircraft means the member of the flight crew designated as commander of that aircraft by the operator thereof, or failing such a person, the person who is for the time being the pilot in command of the aircraft;

“the Committee” means the Harbours and Airport Committee of the States of Jersey;

“Contracting State” means any State which is party to the Chicago Convention, including the United Kingdom (whether on behalf of Jersey or otherwise);

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

(a) 1982 c. 16; subsection (5) of section 75 was amended by section 46 of the Criminal Justice Act 1982 (c. 48). That section has been amended subsequent to its extension to Jersey in ways which are not relevant to the powers exercised by this Order.

(b) S.I. 1990/2145 as amended by S.I. 1998/748.

(c) The eighth edition of Annex 13 to the Chicago Convention dated July 1994 is published by the International Civil Aviation Organisation, Montreal, Canada.

“customs officer” means the Agent of the Impôts or any officer of the Impôts;

“the Directive” means Council Directive 94/56/EC of 21st November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents(a);

“fatal injury” means an injury which is sustained by a person in an accident and which results in his death within 30 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 would affect the safety of operation;

“Inspector” means a person appointed as an Inspector of Air Accidents for Jersey under article 8 below;

“investigating Inspector” means an Inspector carrying out an investigation pursuant to this Order;

“Jersey” means the Bailiwick of Jersey and the territorial sea adjacent thereto;

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

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

“police officer” means any person who is a member of the Honorary Police or a member of the States of Jersey Police Force;

“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 48 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;

and “seriously injured” shall be construed accordingly;

“causes”, “investigation”, “flight recorder”, “undertaking” and “safety recommendation” have the meanings given by Article 3 of the Directive; and

“established” has the same meaning as in the Directive.

(2) Any notice or other document required or authorised by any provision of this Order to be served on or given to any person may be served or given—

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business whether in Jersey or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at that address 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.

(a) OJ No. L 319, 12.2.94, p. 14; a correction to Article 12, which incorrectly states that the implementation date is 21st November 1994 (the correct date being 21st November 1996), was published in OJ No. L 191, 12.8.95, p. 39.

3. This Order applies only to civil aviation accidents and incidents.

Purpose of the investigation of accidents and incidents

4. The sole objective of the investigation of an accident or incident under this Order shall be the prevention of accidents and incidents. It shall not be the purpose of such an investigation to apportion blame or liability.

Duty to furnish information relating to accidents and incidents

5.—(1) Where an accident or a serious incident occurs in respect of which, by virtue of article 8(3) below, the Chief Inspector is required to carry out, or to cause an Inspector to carry out, an investigation, 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 Chief Inspector by the quickest means of communication available and, in the case of an accident, shall also notify forthwith the Chief Officer of the States of Jersey Police Force of the accident and of the place where it occurred.

(2) In this article the expression “relevant person” means the commander of the aircraft involved at the time of the accident or serious incident or, in the event that he is killed or incapacitated, the operator of the aircraft.

(3) The notice to the Chief Inspector referred to in paragraph (1) above 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;
- (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 (UTC) of the accident or serious incident;
- (f) the last point of departure and the next point of intended landing of the aircraft;
- (g) the position of the aircraft by reference to some easily defined geographical point and latitude and longitude;
- (h) the number of—
 - (i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
 - (ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
 - (iii) in the case of an accident, other persons killed or seriously injured as a result of the accident;
- (i) the nature of the accident or serious incident and the extent of the damage to the aircraft as far as is known.

(4) Where an incident, other than a serious incident, takes place in or over Jersey, the owner, operator, commander or hirer of the aircraft shall, if so required by notice given to him by the Chief Inspector, send to the Chief Inspector such information as is in his possession or control with respect to the incident in such form and at such times as may be specified in the notice.

6. Subject to the provisions of articles 11(4)(b) and 18 below, the Chief Inspector may at any time publish, or cause to be published, in Jersey, information relating to an accident or incident whether or not such accident or incident is the subject of an investigation by an Inspector.

Removal of damaged aircraft

7.—(1) Subject to paragraphs (2) and (3) and article 9 below, where an accident, or a serious incident which results in the withdrawal from service of an aircraft, occurs in or over Jersey, 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 Bailiff, 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;
- (e) removing any other property from the aircraft under the supervision of an Inspector or with the agreement of an Inspector or of a police officer.

(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 article the expression “authorised person” means—

- (a) any person authorised by the Bailiff either generally or specially to have access to any aircraft involved in an accident or serious incident;
- (b) any police officer;
- (c) any customs officer;
- (d) the Airport Director appointed pursuant to Article 2 of the Aerodromes (Administration) (Jersey) Law 1952(a).

Inspectors of Air Accidents

8.—(1) For the purpose of carrying out investigations into accidents and incidents to which this Order applies, the Bailiff shall, subject to paragraph (2) below, appoint persons as Inspectors of Air Accidents for Jersey, one of whom shall be appointed by the Bailiff as Chief Inspector of Air Accidents for Jersey.

(2) The Chief Inspector and any Inspectors shall be appointed from the body of Inspectors of Air Accidents in the Air Accidents Investigation Branch of the Department of the Environment, Transport and the Regions of the United Kingdom.

(3) The Chief Inspector shall carry out, or cause an Inspector to carry out, an investigation into accidents and serious incidents which occur in or over Jersey.

(4) The Chief Inspector 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 occurs in or over Jersey.

(5) The Chief Inspector may delegate the task of carrying out an investigation into an accident or incident in accordance with paragraph 5.1 or 5.1.1 of the Annex to another Contracting State.

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

(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 Bailiff may at the request of the Chief Inspector appoint persons to assist an Inspector in a particular investigation and such persons shall for the purpose of so doing have such of the powers of an Inspector under this Order as may be specified in their appointment.

(8) The Chief Inspector may arrange for any of his powers and obligations under this Order to be performed on his behalf by an Inspector designated by him to be his deputy.

(9) In any case where the Chief Inspector causes more than one Inspector to carry out an investigation he shall nominate one of them to be in overall charge of the investigation.

(a) Article 2 was amended by the Aerodromes (Administration) (Amendment No. 3) (Jersey) Law 1991.

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 is hereby authorised, where appropriate in co-operation with the authorities responsible for the judicial inquiry, to—

- (a) have free 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 use of the contents of the flight recorders and any other recordings;
- (d) have access to the results of examination of the bodies of victims or tests made on samples taken from the bodies of victims;
- (e) have immediate access to the results of examination of people involved in the operation of the aircraft or of tests made on samples taken from such people;
- (f) examine witnesses; and
- (g) have free access to 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.

(2) For the purpose of paragraph (1) above 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 books, papers, documents and articles which the investigating Inspector may consider relevant and to retain any such books, papers, 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) Every person summoned by an investigating Inspector under paragraph (2)(a) above shall be allowed such expenses as the Committee may determine.

(4) In this Order “operator” shall have the meaning given by Article 3 of the Directive and “in co-operation with the authorities responsible for the judicial inquiry” shall have the same meaning as in the Directive.

Form and conduct of investigations

10. The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under this Order shall be determined by the Chief Inspector taking account of the purpose described in article 4 above, the principles and objectives of the Directive and the lessons he expects to draw from the accident or incident for the improvement of safety.

Inspector's Report

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.

(2) If it appears to the investigating Inspector that the investigation of any accident or incident involving a collision between a civil aircraft and a military aircraft has been completed but for the investigation of matters affecting the discipline or internal administration of any of Her Majesty's naval, military or air forces or by the naval, military or air forces of any other country which are more appropriate for the investigation by some other person or body, the investigation may be treated for the purposes of paragraph (1) above as if it had been completed without such matters being investigated under this Order. 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 article 4 above and, where appropriate, contain safety recommendations.

(4) 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.

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

(6) The Chief Inspector shall submit a copy of every report prepared pursuant to paragraph (1) above to the Secretary of State, the Bailiff and the Committee without delay.

(7) In this article the expression "investigating Inspector" in a case where more than one Inspector is carrying out the task of investigation means the Inspector nominated under article 8(9) above.

Notice of Inspector's Report and Representations thereon

12.—(1) No report which is required by article 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 to do so, served a notice under this article 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 which may be made to him in accordance with paragraph (3) below by or on behalf of the person served with such notice.

(2) The notice referred to in sub-paragraph (a) of paragraph (1) above 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 sub-paragraph (b) of paragraph (1) above shall be in writing and shall, subject to paragraph (6) below, be served on the investigating Inspector within 28 days of service of the notice referred to in sub-paragraph (a) of paragraph (1) above.

(4) A copy of the report submitted to the Secretary of State, the Bailiff and the Committee under article 11(1) above shall be served by the investigating Inspector on any person who has been served with a notice pursuant to paragraph (1) above.

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

(6) The Chief Inspector shall have power to extend the period of 28 days prescribed in paragraph (3) above and this power shall be exercisable notwithstanding that that period has expired.

(7) In this article the expression “investigating Inspector” in a case where more than one Inspector is carrying out the task of investigation means the Inspector nominated under article 8(9) above.

Publication of Reports

13. Subject to article 12(1) above, the Chief Inspector shall cause the report of an investigation into an accident or incident to be made public in the shortest time possible (and, if possible, within 12 months of the date of the accident or serious incident) and in such manner as he thinks fit.

Safety recommendations

14.—(1) The Chief Inspector shall cause the reports referred to in article 13 above, including those not required to be published and including the safety recommendations contained therein, to be communicated to the undertakings or national aviation authorities concerned.

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

- (a) take that recommendation into consideration and, where appropriate, act upon it;
- (b) send to the Committee—
 - (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 Committee if at any time any information provided to the Committee in pursuance of sub-paragraph (b)(i) above concerning the measures it proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

Reopening of Investigation

15.—(1) The Chief Inspector may cause the investigation of any accident or incident to be reopened and shall do so—

- (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 reopened shall be subject to and conducted in accordance with the provisions of this Order.

Accredited representatives

16.—(1) Where an investigation of an accident or serious incident is being carried out by an investigating Inspector pursuant to article 8 above, an accredited representative appointed by any of—

- (a) the State of Registry;
- (b) the State of Design;
- (c) the State of Manufacture;
- (d) the State of the Operator;
- (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 article the expressions “accredited representative”, “State of Registry”, “State of Design”, “State of Manufacture” and “State of the Operator” have the meanings given to them by Chapter 1 of the Annex and the expression “investigating Inspector” in a case where more than one Inspector is carrying out the task of investigating means the Inspector nominated under article 8(9) above.

Obstruction of Investigation

17.—(1) No person shall obstruct or impede an Inspector or any person acting under the authority of the Bailiff in the exercise of any powers or duties under this Order.

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

Disclosure of relevant records

18.—(1) Subject to paragraphs (2) and (4) to (6) below no relevant record shall be made available by the Secretary of State, the Bailiff or the Committee to any person for purposes other than accident or incident investigation.

(2) Nothing in paragraph (1) above shall preclude the Secretary of State, the Bailiff or the Committee making a relevant record available to any person where—

- (a) in a case where that person is a party to or otherwise entitled to appear at judicial proceedings, the Royal Court has ordered that the relevant record shall be made available to him for the purpose of those proceedings; or
- (b) in any other circumstances, the Royal Court has ordered that the relevant record shall be made available to him for the purpose of those circumstances.

(3) In this article—

- (a) “Bailiff”, “Committee” and “Secretary of State” include an Inspector and an officer of any of those persons;
- (b) “judicial proceedings” includes any proceedings before any court, tribunal or person having by law power to hear, receive and examine evidence on oath; and
- (c) “relevant record” means any item relating to an accident or incident in or over Jersey in the possession, custody or power of the Secretary of State, the Bailiff or the Committee (as the case may be) which is of a kind referred to in sub-paragraphs (a) to (e) of paragraph 5.12 of the Annex.

(4) Subject to paragraph (6) below no order shall be made under paragraph (2) above unless the Royal Court is satisfied that the interests of justice in the judicial proceedings or circumstances in question outweigh any adverse domestic and international impact which disclosure may have on the investigation into an accident or incident to which the record relates or any future accident or incident investigation undertaken in Jersey.

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

(6) The provisions of this Order 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.

Revocation and transitional provision

19. The Civil Aviation (Investigation of Air Accidents) (Jersey) Order 1975^(a) is hereby revoked, save that it shall continue to apply to any investigation commenced under it prior to the coming into force of this Order.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 1975/1516.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Civil Aviation (Investigation of Air Accidents) (Jersey) Order 1975 (S.I. 1975/1516) (“the 1975 Order”). It applies to Jersey provisions which correspond to those of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996 (S.I. 1996/2798) with appropriate modifications and amendments and, in particular, gives effect to amendments made to Annex 13 of the Convention on Civil Aviation (Chicago, 1944) (“the Chicago Convention”).

The principal changes from the 1975 Order are—

- (a) the expression “accident” is defined more narrowly; it no longer includes an incident (article 2(1));
- (b) the preclusion of the removal of damaged aircraft is extended to any case where the aircraft is withdrawn from service as a result of a serious incident (article 7(1));
- (c) the Bailiff is empowered to appoint a Chief Inspector and Inspectors of Air Accidents for Jersey from the Inspectors of Air Accidents of the Air Accidents Investigation Branch of the Department of the Environment, Transport and the Regions of the United Kingdom (article 8);
- (d) accidents and serious incidents which occur in or over Jersey must be investigated (article 8(3));
- (e) the procedure to be followed is as determined by the Chief Inspector (article 10);
- (f) the provisions relating to review boards and to public inquiries are omitted;
- (g) where the accident or incident involves a collision between a civil aircraft and a military aircraft the investigation excludes matters affecting discipline or internal administration of Her Majesty’s armed forces or the armed forces of another country more appropriately undertaken by those forces (article 11(2));
- (h) safety recommendations included in a report are not to create a presumption of blame or liability (article 11(5));
- (i) the Inspector’s report of an investigation into an accident or incident must be published (article 13);
- (j) any undertaking or authority to whom a safety recommendation contained in a report is addressed must take that recommendation into consideration and advise the Harbours and Airport Committee of the States of Jersey of the measures taken or intended to be taken to implement it or the reasons why it is not to be implemented by that body (article 14);
- (k) the preclusion of the disclosure of certain records for purposes other than accident or incident investigation save where the court otherwise orders (article 18).

A copy of the eighth edition of Annex 13 to the Chicago Convention can be obtained from the CAA, Printing and Publications Service, Greville House, 37 Gratton Road, Cheltenham, Gloucestershire GL50 2BN.

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2.—(1) In this Order, unless the context otherwise requires—

“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 until such time as all such persons have disembarked, in which—

(a) a person suffers a fatal or serious injury as a result of—

- being in or upon the aircraft,
- being in direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
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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

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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;

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(c) The eighth edition of Annex 13 to the Chicago Convention dated July 1994 is published by the International Civil Aviation Organisation, Montreal, Canada.

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“the Directive” means Council Directive 94/56/EC of 21st November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents(a);

“fatal injury” means an injury which is sustained by a person in an accident and which results in his death within 30 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 would affect the safety of operation;

“Inspector” means a person appointed as an Inspector of Air Accidents for Jersey under article 8 below;

“investigating Inspector” means an Inspector carrying out an investigation pursuant to this Order;

“Jersey” means the Bailiwick of Jersey and the territorial sea adjacent thereto;

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

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

“police officer” means any person who is a member of the Honorary Police or a member of the States of Jersey Police Force;

“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 48 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;

and “seriously injured” shall be construed accordingly;

“causes”, “investigation”, “flight recorder”, “undertaking” and “safety recommendation” have the meanings given by Article 3 of the Directive; and

“established” has the same meaning as in the Directive.

(2) Any notice or other document required or authorised by any provision of this Order to be served on or given to any person may be served or given—

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business whether in Jersey or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at that address 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.

(a) OJ No. L 319, 12.2.94, p. 14; a correction to Article 12, which incorrectly states that the implementation date is 21st November 1994 (the correct date being 21st November 1996), was published in OJ No. L 191, 12.8.95, p. 39.

3. This Order applies only to civil aviation accidents and incidents.

Purpose of the investigation of accidents and incidents

4. The sole objective of the investigation of an accident or incident under this Order shall be the prevention of accidents and incidents. It shall not be the purpose of such an investigation to apportion blame or liability.

Duty to furnish information relating to accidents and incidents

5.—(1) Where an accident or a serious incident occurs in respect of which, by virtue of article 8(3) below, the Chief Inspector is required to carry out, or to cause an Inspector to carry out, an investigation, 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 Chief Inspector by the quickest means of communication available and, in the case of an accident, shall also notify forthwith the Chief Officer of the States of Jersey Police Force of the accident and of the place where it occurred.

(2) In this article the expression “relevant person” means the commander of the aircraft involved at the time of the accident or serious incident or, in the event that he is killed or incapacitated, the operator of the aircraft.

(3) The notice to the Chief Inspector referred to in paragraph (1) above 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;
- (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 (UTC) of the accident or serious incident;
- (f) the last point of departure and the next point of intended landing of the aircraft;
- (g) the position of the aircraft by reference to some easily defined geographical point and latitude and longitude;
- (h) the number of—
 - (i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
 - (ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
 - (iii) in the case of an accident, other persons killed or seriously injured as a result of the accident;
- (i) the nature of the accident or serious incident and the extent of the damage to the aircraft as far as is known.

(4) Where an incident, other than a serious incident, takes place in or over Jersey, the owner, operator, commander or hirer of the aircraft shall, if so required by notice given to him by the Chief Inspector, send to the Chief Inspector such information as is in his possession or control with respect to the incident in such form and at such times as may be specified in the notice.

6. Subject to the provisions of articles 11(4)(b) and 18 below, the Chief Inspector may at any time publish, or cause to be published, in Jersey, information relating to an accident or incident whether or not such accident or incident is the subject of an investigation by an Inspector.

Removal of damaged aircraft

7.—(1) Subject to paragraphs (2) and (3) and article 9 below, where an accident, or a serious incident which results in the withdrawal from service of an aircraft, occurs in or over Jersey, 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 Bailiff, 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;
- (e) removing any other property from the aircraft under the supervision of an Inspector or with the agreement of an Inspector or of a police officer.

(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 article the expression “authorised person” means—

- (a) any person authorised by the Bailiff either generally or specially to have access to any aircraft involved in an accident or serious incident;
- (b) any police officer;
- (c) any customs officer;
- (d) the Airport Director appointed pursuant to Article 2 of the Aerodromes (Administration) (Jersey) Law 1952(a).

Inspectors of Air Accidents

8.—(1) For the purpose of carrying out investigations into accidents and incidents to which this Order applies, the Bailiff shall, subject to paragraph (2) below, appoint persons as Inspectors of Air Accidents for Jersey, one of whom shall be appointed by the Bailiff as Chief Inspector of Air Accidents for Jersey.

(2) The Chief Inspector and any Inspectors shall be appointed from the body of Inspectors of Air Accidents in the Air Accidents Investigation Branch of the Department of the Environment, Transport and the Regions of the United Kingdom.

(3) The Chief Inspector shall carry out, or cause an Inspector to carry out, an investigation into accidents and serious incidents which occur in or over Jersey.

(4) The Chief Inspector 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 occurs in or over Jersey.

(5) The Chief Inspector may delegate the task of carrying out an investigation into an accident or incident in accordance with paragraph 5.1 or 5.1.1 of the Annex to another Contracting State.

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

(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 Bailiff may at the request of the Chief Inspector appoint persons to assist an Inspector in a particular investigation and such persons shall for the purpose of so doing have such of the powers of an Inspector under this Order as may be specified in their appointment.

(8) The Chief Inspector may arrange for any of his powers and obligations under this Order to be performed on his behalf by an Inspector designated by him to be his deputy.

(9) In any case where the Chief Inspector causes more than one Inspector to carry out an investigation he shall nominate one of them to be in overall charge of the investigation.

(a) Article 2 was amended by the Aerodromes (Administration) (Amendment No. 3) (Jersey) Law 1991.

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 is hereby authorised, where appropriate in co-operation with the authorities responsible for the judicial inquiry, to—

- (a) have free 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 use of the contents of the flight recorders and any other recordings;
- (d) have access to the results of examination of the bodies of victims or tests made on samples taken from the bodies of victims;
- (e) have immediate access to the results of examination of people involved in the operation of the aircraft or of tests made on samples taken from such people;
- (f) examine witnesses; and
- (g) have free access to 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.

(2) For the purpose of paragraph (1) above 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 books, papers, documents and articles which the investigating Inspector may consider relevant and to retain any such books, papers, 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) Every person summoned by an investigating Inspector under paragraph (2)(a) above shall be allowed such expenses as the Committee may determine.

(4) In this Order “operator” shall have the meaning given by Article 3 of the Directive and “in co-operation with the authorities responsible for the judicial inquiry” shall have the same meaning as in the Directive.

Form and conduct of investigations

10. The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under this Order shall be determined by the Chief Inspector taking account of the purpose described in article 4 above, the principles and objectives of the Directive and the lessons he expects to draw from the accident or incident for the improvement of safety.

Inspector's Report

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.

(2) If it appears to the investigating Inspector that the investigation of any accident or incident involving a collision between a civil aircraft and a military aircraft has been completed but for the investigation of matters affecting the discipline or internal administration of any of Her Majesty's naval, military or air forces or by the naval, military or air forces of any other country which are more appropriate for the investigation by some other person or body, the investigation may be treated for the purposes of paragraph (1) above as if it had been completed without such matters being investigated under this Order. 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 article 4 above and, where appropriate, contain safety recommendations.

(4) 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.

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

(6) The Chief Inspector shall submit a copy of every report prepared pursuant to paragraph (1) above to the Secretary of State, the Bailiff and the Committee without delay.

(7) In this article the expression "investigating Inspector" in a case where more than one Inspector is carrying out the task of investigation means the Inspector nominated under article 8(9) above.

Notice of Inspector's Report and Representations thereon

12.—(1) No report which is required by article 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 to do so, served a notice under this article 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 which may be made to him in accordance with paragraph (3) below by or on behalf of the person served with such notice.

(2) The notice referred to in sub-paragraph (a) of paragraph (1) above 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 sub-paragraph (b) of paragraph (1) above shall be in writing and shall, subject to paragraph (6) below, be served on the investigating Inspector within 28 days of service of the notice referred to in sub-paragraph (a) of paragraph (1) above.

(4) A copy of the report submitted to the Secretary of State, the Bailiff and the Committee under article 11(1) above shall be served by the investigating Inspector on any person who has been served with a notice pursuant to paragraph (1) above.

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

(6) The Chief Inspector shall have power to extend the period of 28 days prescribed in paragraph (3) above and this power shall be exercisable notwithstanding that that period has expired.

(7) In this article the expression “investigating Inspector” in a case where more than one Inspector is carrying out the task of investigation means the Inspector nominated under article 8(9) above.

Publication of Reports

13. Subject to article 12(1) above, the Chief Inspector shall cause the report of an investigation into an accident or incident to be made public in the shortest time possible (and, if possible, within 12 months of the date of the accident or serious incident) and in such manner as he thinks fit.

Safety recommendations

14.—(1) The Chief Inspector shall cause the reports referred to in article 13 above, including those not required to be published and including the safety recommendations contained therein, to be communicated to the undertakings or national aviation authorities concerned.

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

- (a) take that recommendation into consideration and, where appropriate, act upon it;
- (b) send to the Committee—
 - (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 Committee if at any time any information provided to the Committee in pursuance of sub-paragraph (b)(i) above concerning the measures it proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

Reopening of Investigation

15.—(1) The Chief Inspector may cause the investigation of any accident or incident to be reopened and shall do so—

- (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 reopened shall be subject to and conducted in accordance with the provisions of this Order.

Accredited representatives

16.—(1) Where an investigation of an accident or serious incident is being carried out by an investigating Inspector pursuant to article 8 above, an accredited representative appointed by any of—

- (a) the State of Registry;
- (b) the State of Design;
- (c) the State of Manufacture;
- (d) the State of the Operator;
- (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 article the expressions “accredited representative”, “State of Registry”, “State of Design”, “State of Manufacture” and “State of the Operator” have the meanings given to them by Chapter 1 of the Annex and the expression “investigating Inspector” in a case where more than one Inspector is carrying out the task of investigating means the Inspector nominated under article 8(9) above.

Obstruction of Investigation

17.—(1) No person shall obstruct or impede an Inspector or any person acting under the authority of the Bailiff in the exercise of any powers or duties under this Order.

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

Disclosure of relevant records

18.—(1) Subject to paragraphs (2) and (4) to (6) below no relevant record shall be made available by the Secretary of State, the Bailiff or the Committee to any person for purposes other than accident or incident investigation.

(2) Nothing in paragraph (1) above shall preclude the Secretary of State, the Bailiff or the Committee making a relevant record available to any person where—

- (a) in a case where that person is a party to or otherwise entitled to appear at judicial proceedings, the Royal Court has ordered that the relevant record shall be made available to him for the purpose of those proceedings; or
- (b) in any other circumstances, the Royal Court has ordered that the relevant record shall be made available to him for the purpose of those circumstances.

(3) In this article—

- (a) “Bailiff”, “Committee” and “Secretary of State” include an Inspector and an officer of any of those persons;
- (b) “judicial proceedings” includes any proceedings before any court, tribunal or person having by law power to hear, receive and examine evidence on oath; and
- (c) “relevant record” means any item relating to an accident or incident in or over Jersey in the possession, custody or power of the Secretary of State, the Bailiff or the Committee (as the case may be) which is of a kind referred to in sub-paragraphs (a) to (e) of paragraph 5.12 of the Annex.

(4) Subject to paragraph (6) below no order shall be made under paragraph (2) above unless the Royal Court is satisfied that the interests of justice in the judicial proceedings or circumstances in question outweigh any adverse domestic and international impact which disclosure may have on the investigation into an accident or incident to which the record relates or any future accident or incident investigation undertaken in Jersey.

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

(6) The provisions of this Order 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.

Revocation and transitional provision

19. The Civil Aviation (Investigation of Air Accidents) (Jersey) Order 1975^(a) is hereby revoked, save that it shall continue to apply to any investigation commenced under it prior to the coming into force of this Order.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 1975/1516.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Civil Aviation (Investigation of Air Accidents) (Jersey) Order 1975 (S.I. 1975/1516) (“the 1975 Order”). It applies to Jersey provisions which correspond to those of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996 (S.I. 1996/2798) with appropriate modifications and amendments and, in particular, gives effect to amendments made to Annex 13 of the Convention on Civil Aviation (Chicago, 1944) (“the Chicago Convention”).

The principal changes from the 1975 Order are—

- (a) the expression “accident” is defined more narrowly; it no longer includes an incident (article 2(1));
- (b) the preclusion of the removal of damaged aircraft is extended to any case where the aircraft is withdrawn from service as a result of a serious incident (article 7(1));
- (c) the Bailiff is empowered to appoint a Chief Inspector and Inspectors of Air Accidents for Jersey from the Inspectors of Air Accidents of the Air Accidents Investigation Branch of the Department of the Environment, Transport and the Regions of the United Kingdom (article 8);
- (d) accidents and serious incidents which occur in or over Jersey must be investigated (article 8(3));
- (e) the procedure to be followed is as determined by the Chief Inspector (article 10);
- (f) the provisions relating to review boards and to public inquiries are omitted;
- (g) where the accident or incident involves a collision between a civil aircraft and a military aircraft the investigation excludes matters affecting discipline or internal administration of Her Majesty’s armed forces or the armed forces of another country more appropriately undertaken by those forces (article 11(2));
- (h) safety recommendations included in a report are not to create a presumption of blame or liability (article 11(5));
- (i) the Inspector’s report of an investigation into an accident or incident must be published (article 13);
- (j) any undertaking or authority to whom a safety recommendation contained in a report is addressed must take that recommendation into consideration and advise the Harbours and Airport Committee of the States of Jersey of the measures taken or intended to be taken to implement it or the reasons why it is not to be implemented by that body (article 14);
- (k) the preclusion of the disclosure of certain records for purposes other than accident or incident investigation save where the court otherwise orders (article 18).

A copy of the eighth edition of Annex 13 to the Chicago Convention can be obtained from the CAA, Printing and Publications Service, Greville House, 37 Gratton Road, Cheltenham, Gloucestershire GL50 2BN.

2000 No. 1345

CIVIL AVIATION

**The Civil Aviation (Investigation of Air Accidents and
Incidents) (Jersey) Order 2000**

Made - - - - *17th May 2000*
Coming into force *1st June 2000*

At the Court at Buckingham Palace, the 17th day of May 2000

Present,

The Queen's Most Excellent Majesty in Council

ARRANGEMENT OF ARTICLES

- 1-3. Citation, commencement, interpretation and application
4. Purpose of the investigation of accidents and incidents
- 5-6. Duty to furnish information relating to accidents and incidents
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 thereon
13. Publication of Reports
14. Safety recommendations
15. Reopening of Investigation
16. Accredited representatives
17. Obstruction of Investigation
18. Disclosure of relevant records
19. Revocation

Her Majesty, in exercise of the powers conferred upon Her by sections 75 and 102(2) of, and paragraph 4 of Part III of Schedule 13 to, the Civil Aviation Act 1982(a), as extended to the Bailiwick of Jersey by the Civil Aviation Act 1982 (Jersey) Order 1990(b), is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement, interpretation and application

1. This Order may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000 and shall come into force on 1st June 2000.

2.—(1) In this Order, unless the context otherwise requires—

“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 until such time as all such persons have disembarked, in which—

(a) a person suffers a fatal or serious injury as a result of—

- being in or upon the aircraft,
- being in 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 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;

“aerodrome authority” means, in relation to any aerodrome, the person by whom the aerodrome is managed;

“the Annex” means Annex 13 to the Chicago Convention as amended on 23rd March 1994(c);

“the Bailiff” means the Bailiff of Jersey;

“Chief Inspector” means the Chief Inspector of Air Accidents for Jersey appointed under article 8 below;

“commander” in relation to an aircraft means the member of the flight crew designated as commander of that aircraft by the operator thereof, or failing such a person, the person who is for the time being the pilot in command of the aircraft;

“the Committee” means the Harbours and Airport Committee of the States of Jersey;

“Contracting State” means any State which is party to the Chicago Convention, including the United Kingdom (whether on behalf of Jersey or otherwise);

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

(a) 1982 c. 16; subsection (5) of section 75 was amended by section 46 of the Criminal Justice Act 1982 (c. 48). That section has been amended subsequent to its extension to Jersey in ways which are not relevant to the powers exercised by this Order.

(b) S.I. 1990/2145 as amended by S.I. 1998/748.

(c) The eighth edition of Annex 13 to the Chicago Convention dated July 1994 is published by the International Civil Aviation Organisation, Montreal, Canada.

“customs officer” means the Agent of the Impôts or any officer of the Impôts;

“the Directive” means Council Directive 94/56/EC of 21st November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents(a);

“fatal injury” means an injury which is sustained by a person in an accident and which results in his death within 30 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 would affect the safety of operation;

“Inspector” means a person appointed as an Inspector of Air Accidents for Jersey under article 8 below;

“investigating Inspector” means an Inspector carrying out an investigation pursuant to this Order;

“Jersey” means the Bailiwick of Jersey and the territorial sea adjacent thereto;

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

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

“police officer” means any person who is a member of the Honorary Police or a member of the States of Jersey Police Force;

“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 48 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;

and “seriously injured” shall be construed accordingly;

“causes”, “investigation”, “flight recorder”, “undertaking” and “safety recommendation” have the meanings given by Article 3 of the Directive; and

“established” has the same meaning as in the Directive.

(2) Any notice or other document required or authorised by any provision of this Order to be served on or given to any person may be served or given—

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business whether in Jersey or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at that address 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.

(a) OJ No. L 319, 12.2.94, p. 14; a correction to Article 12, which incorrectly states that the implementation date is 21st November 1994 (the correct date being 21st November 1996), was published in OJ No. L 191, 12.8.95, p. 39.

3. This Order applies only to civil aviation accidents and incidents.

Purpose of the investigation of accidents and incidents

4. The sole objective of the investigation of an accident or incident under this Order shall be the prevention of accidents and incidents. It shall not be the purpose of such an investigation to apportion blame or liability.

Duty to furnish information relating to accidents and incidents

5.—(1) Where an accident or a serious incident occurs in respect of which, by virtue of article 8(3) below, the Chief Inspector is required to carry out, or to cause an Inspector to carry out, an investigation, 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 Chief Inspector by the quickest means of communication available and, in the case of an accident, shall also notify forthwith the Chief Officer of the States of Jersey Police Force of the accident and of the place where it occurred.

(2) In this article the expression “relevant person” means the commander of the aircraft involved at the time of the accident or serious incident or, in the event that he is killed or incapacitated, the operator of the aircraft.

(3) The notice to the Chief Inspector referred to in paragraph (1) above 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;
- (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 (UTC) of the accident or serious incident;
- (f) the last point of departure and the next point of intended landing of the aircraft;
- (g) the position of the aircraft by reference to some easily defined geographical point and latitude and longitude;
- (h) the number of—
 - (i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
 - (ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident;
 - (iii) in the case of an accident, other persons killed or seriously injured as a result of the accident;
- (i) the nature of the accident or serious incident and the extent of the damage to the aircraft as far as is known.

(4) Where an incident, other than a serious incident, takes place in or over Jersey, the owner, operator, commander or hirer of the aircraft shall, if so required by notice given to him by the Chief Inspector, send to the Chief Inspector such information as is in his possession or control with respect to the incident in such form and at such times as may be specified in the notice.

6. Subject to the provisions of articles 11(4)(b) and 18 below, the Chief Inspector may at any time publish, or cause to be published, in Jersey, information relating to an accident or incident whether or not such accident or incident is the subject of an investigation by an Inspector.

Removal of damaged aircraft

7.—(1) Subject to paragraphs (2) and (3) and article 9 below, where an accident, or a serious incident which results in the withdrawal from service of an aircraft, occurs in or over Jersey, 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 Bailiff, 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;
- (e) removing any other property from the aircraft under the supervision of an Inspector or with the agreement of an Inspector or of a police officer.

(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 article the expression “authorised person” means—

- (a) any person authorised by the Bailiff either generally or specially to have access to any aircraft involved in an accident or serious incident;
- (b) any police officer;
- (c) any customs officer;
- (d) the Airport Director appointed pursuant to Article 2 of the Aerodromes (Administration) (Jersey) Law 1952^(a).

Inspectors of Air Accidents

8.—(1) For the purpose of carrying out investigations into accidents and incidents to which this Order applies, the Bailiff shall, subject to paragraph (2) below, appoint persons as Inspectors of Air Accidents for Jersey, one of whom shall be appointed by the Bailiff as Chief Inspector of Air Accidents for Jersey.

(2) The Chief Inspector and any Inspectors shall be appointed from the body of Inspectors of Air Accidents in the Air Accidents Investigation Branch of the Department of the Environment, Transport and the Regions of the United Kingdom.

(3) The Chief Inspector shall carry out, or cause an Inspector to carry out, an investigation into accidents and serious incidents which occur in or over Jersey.

(4) The Chief Inspector 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 occurs in or over Jersey.

(5) The Chief Inspector may delegate the task of carrying out an investigation into an accident or incident in accordance with paragraph 5.1 or 5.1.1 of the Annex to another Contracting State.

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

(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 Bailiff may at the request of the Chief Inspector appoint persons to assist an Inspector in a particular investigation and such persons shall for the purpose of so doing have such of the powers of an Inspector under this Order as may be specified in their appointment.

(8) The Chief Inspector may arrange for any of his powers and obligations under this Order to be performed on his behalf by an Inspector designated by him to be his deputy.

(9) In any case where the Chief Inspector causes more than one Inspector to carry out an investigation he shall nominate one of them to be in overall charge of the investigation.

^(a) Article 2 was amended by the Aerodromes (Administration) (Amendment No. 3) (Jersey) Law 1991.

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 is hereby authorised, where appropriate in co-operation with the authorities responsible for the judicial inquiry, to—

- (a) have free 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 use of the contents of the flight recorders and any other recordings;
- (d) have access to the results of examination of the bodies of victims or tests made on samples taken from the bodies of victims;
- (e) have immediate access to the results of examination of people involved in the operation of the aircraft or of tests made on samples taken from such people;
- (f) examine witnesses; and
- (g) have free access to 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.

(2) For the purpose of paragraph (1) above 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 books, papers, documents and articles which the investigating Inspector may consider relevant and to retain any such books, papers, 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) Every person summoned by an investigating Inspector under paragraph (2)(a) above shall be allowed such expenses as the Committee may determine.

(4) In this Order “operator” shall have the meaning given by Article 3 of the Directive and “in co-operation with the authorities responsible for the judicial inquiry” shall have the same meaning as in the Directive.

Form and conduct of investigations

10. The extent of investigations and the procedure to be followed in carrying out investigations required or authorised under this Order shall be determined by the Chief Inspector taking account of the purpose described in article 4 above, the principles and objectives of the Directive and the lessons he expects to draw from the accident or incident for the improvement of safety.

Inspector's Report

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.

(2) If it appears to the investigating Inspector that the investigation of any accident or incident involving a collision between a civil aircraft and a military aircraft has been completed but for the investigation of matters affecting the discipline or internal administration of any of Her Majesty's naval, military or air forces or by the naval, military or air forces of any other country which are more appropriate for the investigation by some other person or body, the investigation may be treated for the purposes of paragraph (1) above as if it had been completed without such matters being investigated under this Order. 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 article 4 above and, where appropriate, contain safety recommendations.

(4) 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.

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

(6) The Chief Inspector shall submit a copy of every report prepared pursuant to paragraph (1) above to the Secretary of State, the Bailiff and the Committee without delay.

(7) In this article the expression "investigating Inspector" in a case where more than one Inspector is carrying out the task of investigation means the Inspector nominated under article 8(9) above.

Notice of Inspector's Report and Representations thereon

12.—(1) No report which is required by article 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 to do so, served a notice under this article 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 which may be made to him in accordance with paragraph (3) below by or on behalf of the person served with such notice.

(2) The notice referred to in sub-paragraph (a) of paragraph (1) above 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 sub-paragraph (b) of paragraph (1) above shall be in writing and shall, subject to paragraph (6) below, be served on the investigating Inspector within 28 days of service of the notice referred to in sub-paragraph (a) of paragraph (1) above.

(4) A copy of the report submitted to the Secretary of State, the Bailiff and the Committee under article 11(1) above shall be served by the investigating Inspector on any person who has been served with a notice pursuant to paragraph (1) above.

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

(6) The Chief Inspector shall have power to extend the period of 28 days prescribed in paragraph (3) above and this power shall be exercisable notwithstanding that that period has expired.

(7) In this article the expression “investigating Inspector” in a case where more than one Inspector is carrying out the task of investigation means the Inspector nominated under article 8(9) above.

Publication of Reports

13. Subject to article 12(1) above, the Chief Inspector shall cause the report of an investigation into an accident or incident to be made public in the shortest time possible (and, if possible, within 12 months of the date of the accident or serious incident) and in such manner as he thinks fit.

Safety recommendations

14.—(1) The Chief Inspector shall cause the reports referred to in article 13 above, including those not required to be published and including the safety recommendations contained therein, to be communicated to the undertakings or national aviation authorities concerned.

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

- (a) take that recommendation into consideration and, where appropriate, act upon it;
- (b) send to the Committee—
 - (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 Committee if at any time any information provided to the Committee in pursuance of sub-paragraph (b)(i) above concerning the measures it proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

Reopening of Investigation

15.—(1) The Chief Inspector may cause the investigation of any accident or incident to be reopened and shall do so—

- (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 reopened shall be subject to and conducted in accordance with the provisions of this Order.

Accredited representatives

16.—(1) Where an investigation of an accident or serious incident is being carried out by an investigating Inspector pursuant to article 8 above, an accredited representative appointed by any of—

- (a) the State of Registry;
- (b) the State of Design;
- (c) the State of Manufacture;
- (d) the State of the Operator;
- (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 article the expressions “accredited representative”, “State of Registry”, “State of Design”, “State of Manufacture” and “State of the Operator” have the meanings given to them by Chapter 1 of the Annex and the expression “investigating Inspector” in a case where more than one Inspector is carrying out the task of investigating means the Inspector nominated under article 8(9) above.

Obstruction of Investigation

17.—(1) No person shall obstruct or impede an Inspector or any person acting under the authority of the Bailiff in the exercise of any powers or duties under this Order.

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

Disclosure of relevant records

18.—(1) Subject to paragraphs (2) and (4) to (6) below no relevant record shall be made available by the Secretary of State, the Bailiff or the Committee to any person for purposes other than accident or incident investigation.

(2) Nothing in paragraph (1) above shall preclude the Secretary of State, the Bailiff or the Committee making a relevant record available to any person where—

- (a) in a case where that person is a party to or otherwise entitled to appear at judicial proceedings, the Royal Court has ordered that the relevant record shall be made available to him for the purpose of those proceedings; or
- (b) in any other circumstances, the Royal Court has ordered that the relevant record shall be made available to him for the purpose of those circumstances.

(3) In this article—

- (a) “Bailiff”, “Committee” and “Secretary of State” include an Inspector and an officer of any of those persons;
- (b) “judicial proceedings” includes any proceedings before any court, tribunal or person having by law power to hear, receive and examine evidence on oath; and
- (c) “relevant record” means any item relating to an accident or incident in or over Jersey in the possession, custody or power of the Secretary of State, the Bailiff or the Committee (as the case may be) which is of a kind referred to in sub-paragraphs (a) to (e) of paragraph 5.12 of the Annex.

(4) Subject to paragraph (6) below no order shall be made under paragraph (2) above unless the Royal Court is satisfied that the interests of justice in the judicial proceedings or circumstances in question outweigh any adverse domestic and international impact which disclosure may have on the investigation into an accident or incident to which the record relates or any future accident or incident investigation undertaken in Jersey.

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

(6) The provisions of this Order 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.

Revocation and transitional provision

19. The Civil Aviation (Investigation of Air Accidents) (Jersey) Order 1975^(a) is hereby revoked, save that it shall continue to apply to any investigation commenced under it prior to the coming into force of this Order.

Clerk of the Privy Council

(a) S.I. 1975/1516.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Civil Aviation (Investigation of Air Accidents) (Jersey) Order 1975 (S.I. 1975/1516) (“the 1975 Order”). It applies to Jersey provisions which correspond to those of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996 (S.I. 1996/2798) with appropriate modifications and amendments and, in particular, gives effect to amendments made to Annex 13 of the Convention on Civil Aviation (Chicago, 1944) (“the Chicago Convention”).

The principal changes from the 1975 Order are—

- (a) the expression “accident” is defined more narrowly; it no longer includes an incident (article 2(1));
- (b) the preclusion of the removal of damaged aircraft is extended to any case where the aircraft is withdrawn from service as a result of a serious incident (article 7(1));
- (c) the Bailiff is empowered to appoint a Chief Inspector and Inspectors of Air Accidents for Jersey from the Inspectors of Air Accidents of the Air Accidents Investigation Branch of the Department of the Environment, Transport and the Regions of the United Kingdom (article 8);
- (d) accidents and serious incidents which occur in or over Jersey must be investigated (article 8(3));
- (e) the procedure to be followed is as determined by the Chief Inspector (article 10);
- (f) the provisions relating to review boards and to public inquiries are omitted;
- (g) where the accident or incident involves a collision between a civil aircraft and a military aircraft the investigation excludes matters affecting discipline or internal administration of Her Majesty’s armed forces or the armed forces of another country more appropriately undertaken by those forces (article 11(2));
- (h) safety recommendations included in a report are not to create a presumption of blame or liability (article 11(5));
- (i) the Inspector’s report of an investigation into an accident or incident must be published (article 13);
- (j) any undertaking or authority to whom a safety recommendation contained in a report is addressed must take that recommendation into consideration and advise the Harbours and Airport Committee of the States of Jersey of the measures taken or intended to be taken to implement it or the reasons why it is not to be implemented by that body (article 14);
- (k) the preclusion of the disclosure of certain records for purposes other than accident or incident investigation save where the court otherwise orders (article 18).

A copy of the eighth edition of Annex 13 to the Chicago Convention can be obtained from the CAA, Printing and Publications Service, Greville House, 37 Gratton Road, Cheltenham, Gloucestershire GL50 2BN.