

GUYANA

No. 24 of 1982.

REGULATIONS

Made Under

THE CIVIL AVIATION ACT, 1949

(12 & 13 Geo. 6)

UNDER SECTION 10 OF THE CIVIL AVIATION ACT, 1949, AS APPLIED TO GUYANA BY THE COLONIAL CIVIL AVIATION (APPLICATION OF ACT) ORDER, 1952, THE FOLLOWING REGULATIONS HAVE BEEN MADE BY THE PRESIDENT:—

1. These Regulations may be cited as the Civil Aviation (Investigation of Accidents) Regulations 1982. Citation.

2. In these Regulations —

Inter-
pretation

“accident” includes any fortuitous or unexpected event by which the safety of an aircraft or any person is threatened;

“aircraft” includes all balloons (whether captive or free), gliders, airships and flying machines;

“air navigation” includes in relation to any purpose of these Regulations, the time from which any person boards an aircraft with the intention of flight until such person has disembarked;

“commander” in relation to an aircraft means the member of the 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;

“Director” means the Director of Civil Aviation;

“Inspector” means a person appointed as an Inspector of Accidents under these Regulations;

“operator” in relation to an aircraft means the person for the time being having the management of that aircraft;

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

“substantial damage” includes any damage or structural failure which adversely affects the structural strength, performance or flight characteristics of the aircraft and which would normally require the major repair or replacement of the affected component.

Application
of regula-
tions.

3. These Regulations relate only to civil aviation and shall apply to accidents arising out of or in the course of air navigation which occur to civil aircraft in or over Guyana, or elsewhere to civil aircraft registered in Guyana.

Notification
of accidents.

4. An accident shall be notified in accordance with the provisions of regulation 5 if, between the time when any person boards an aircraft with the intention of flight and such time as all persons have disembarked therefrom —

- (a) any person suffers death or serious injury while in or upon the aircraft or by direct contact with the aircraft or anything attached thereto; or
- (b) the aircraft receives substantial damage.

Nature of
notification
to be given.

5. (1) Where an accident occurs of which notification is required to be given under regulation 4, the commander of the aircraft involved at the time of the accident or if he be killed or incapacitated then the owner, operator, hirer, or other person on whose behalf he was in command of the aircraft, as the case may be, shall forthwith give notice thereof to the Director by the quickest means of communication available and in the case of an accident occurring in or over Guyana shall also notify forthwith the nearest Police Station or Police Officer and of the place where it occurred.

(2) The notice to the Director referred to in paragraph (1) of this regulation shall state as far as possible —

- (a) the type, model and the nationality and registration marks of the aircraft;
- (b) the name of the owner, operator and hirer, if any, of the aircraft;
- (c) the name of the commander of aircraft;
- (d) the date and time of the accident;
- (e) the last point of departure and the next point of intended landing of the aircraft;

- (f) the position of the aircraft with reference to some easily defined geographical point;
- (g)
 - (i) the number of persons on board the aircraft at the time of the accident,
 - (ii) the number of those persons killed as a result of the accident,
 - (iii) the number of those persons seriously injured as the result of the accident,
 - (iv) the number of persons killed or seriously injured elsewhere than on the aircraft;
- (h) the nature of the accident and brief particulars of damage to the aircraft as far as is known.

(3) Where an accident to which these Regulations apply occurs, whether in or over Guyana or elsewhere, the owner, operator, commander or hirer of the aircraft shall, if so required by notice in writing from the Director, send to the Director within such time as may be specified in the notice, such information as is in his possession or control with respect to the accident in such form as the Director may require.

6. (1) Where an accident occurs in or over Guyana, of which notification is required to be given under regulation 4, no person other than an authorised person shall have access to the aircraft involved in the accident and the aircraft shall not except under the authority of the Director be removed or otherwise interfered with:

Removal of
damaged
aircraft.

Provided that —

- (a) the aircraft may be removed or interfered with so far as may be necessary for the purpose of extricating persons or animals, removing any mails carried by the aircraft, preventing destruction by fire or other cause, or preventing any danger or obstruction to the public or to air navigation or to other transport or, under the supervision of a police officer, for the purpose of removing any other property from the aircraft;
- (b) if an aircraft is wrecked on the 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.

(2) In this regulation the expression "authorised person" means any person authorised by the Director either generally or specially to have access to any aircraft involved in an accident and includes any police officer or any officer of Customs and Excise.

Inspector of
Accidents.

7. (1) For the purpose of carrying out investigation into the circumstances and causes of accidents to which these Regulations apply the President shall appoint a person as Inspector of Accidents.

(2) The President may cause an investigation to be carried out by an Inspector of any accident to which these Regulations apply, whether or not such accident is one whereof notification is required to be given under regulation 4.

(3) Public notice that such investigation is taking place shall be given in such manner as the Director may think fit and shall state that any person who may desire to make representations concerning the circumstances or causes of the accident may do so in writing within a time to be specified in the notice.

(4) An investigation under this regulation shall be conducted in such manner that if a charge is made or is likely to be made against any person, that person shall have an opportunity of being present, and of making any statement, or giving any evidence, and producing witnesses on his behalf.

Powers of
Inspector.

8. For the purpose of the investigation of any accident to which these Regulations apply, an 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 Inspector may consider relevant, and to retain any such books, papers, documents and articles until the completion of the investigation or any inquiry held pursuant to regulation 11 of these regulations;
- (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) to have access to and examine any aircraft involved in the accident and the place where the accident occurred, and for that purpose to require any such aircraft or any part or equipment thereof to be preserved unaltered pending examination;
- (d) to examine, remove, test, take measures for the preservation of, or otherwise deal with the aircraft or any part thereof or anything contained therein;
- (e) to enter and inspect any place or building the entry or inspection whereof appears to the Inspector to be requisite for the purposes of the investigation or of any inquiry held as aforesaid;

(f) to take measures for the preservation of evidence.

9. (1) The Inspector's investigation shall be held in private.

Inspector's
investigation

(2) Where it appears to the Inspector that in order to resolve any conflict of evidence or that for any other reason it is expedient so to do, he may permit any person to appear before him and to call evidence and examine witnesses.

(3) Where it appears to the Inspector that any degree of responsibility for the accident may be attributed to any person, and if it appears to the Inspector to be practicable so to do, that person or, if he be deceased, his legal personal representatives shall be given notice that blame may be attributed to him and be permitted to make a statement or give evidence and to produce witnesses and to examine any witnesses from whose evidence it appears that he may be blame-worthy.

(4) The Attorney General may intervene at any stage of an investigation in order to make representations or to examine witnesses, if it appears to him expedient so to do in the public interest.

(5) Every person summoned by the Inspector as a witness in accordance with these Regulations may be allowed such expenses as may from time to time be authorised by the President.

10. (1) Upon completion of an investigation, the Inspector shall make a report to the President. He shall state the circumstances of the case and his conclusions as to the cause of the accident, adding any observations and recommendations which he thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future. He shall also state to what extent effect has been given to the provisions of paragraph (3) of regulation 9.

Inspector's
report.

(2) The President may cause the whole or any part of such report to be made public in such manner as he thinks fit.

11. Where it appears to the President that it is expedient in the public interest to hold a public inquiry into the circumstances and causes of an accident to which these Regulations apply, he may, by order, direct that such an inquiry be held and with respect to any such investigation the following provisions shall have effect —

Public
inquiries.

(a) the President may appoint a competent person to hold the investigation, and may appoint any person possessing aeronautical engineering or other special knowledge to act as assessor in holding the inquiry, and may assign to any such person such remuneration as he may determine;

- (b) the person appointed to hold the investigation (hereinafter called the court) shall hold the same in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident, and enabling the court to make the report in this section mentioned;
- (c) the court shall have for the purpose of the inquiry all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and without prejudice to those powers the court may —
 - (i) enter and inspect, or authorise any person to enter and inspect, any place or building the entry and inspection whereof appears to the court requisite for the said purpose;
 - (ii) by summons, require the attendance as witnesses of all such persons as the court thinks fit to call and examine, for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make;
 - (iii) require the production of all books, papers, plans and documents which it considers important for the said purpose;
 - (iv) administer the oath and require any person examined to make and sign a declaration of the truth of the statement made by him in his examination;
- (d) the assessor shall have the same power of entry and inspection as the court;
- (e) the investigation shall be conducted in such manner that, if a charge is made or likely to be made against any person, that person shall have an opportunity of being present and of making any statement or giving any evidence and producing witnesses on his behalf;
- (f) any Inspector's investigation relating to the accident shall be discontinued;
- (g) When an Inspector's investigation has been held, the Inspector on whose report the public inquiry was directed to be held shall superintend the management of the case, and shall render the court such assistance as is in his power.

- (h) every person attending as a witness before the court shall be allowed such expenses as would be allowed to a witness attending before the Supreme Court, and in the case of dispute as to the amount to be allowed the same shall be referred by the court to the Registrar of the Supreme Court, who on request signed by the court shall ascertain and certify the proper amount of the expenses :

Provided that in the case of the owner or hirer of any aircraft concerned in the accident and of any person in his employment, any such expenses may be disallowed if the court, in its discretion so directs;

- (i) the court shall make a report to the President stating its findings as to the causes of the accident and the circumstances thereof, and adding any observations and recommendations which the court thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future, including a recommendation for the cancellation, suspension or endorsement of any licence or certificate;
- (j) the assessor, if any, shall either sign the report with or without reservations or state in writing his dissent therefrom and his reasons for such dissent, and such reservations or dissent and reasons, if any, shall be forwarded to the President with the report. The President may cause any such report and reservations or dissent and reasons, if any, to be made public, wholly or in part, in such a manner as he thinks fit;
- (k) the court may order any costs and expenses incurred in and about the investigation (including any remuneration payable to any person appointed to hold the investigation or to act as assessor) to be paid by any person summoned before it, if it finds that the accident was due to the act or default or negligence of that person; and any such order, shall, on the application of any person entitled to the benefit thereof, be enforced by a court of summary jurisdiction as if the costs and expenses were a penalty imposed by the court; but subject to any such order such costs and expenses shall be deemed to be part of the expenses of the Government of Guyana in the execution of this regulation;
- (l) the expenses of the Government in the execution of the provisions of this regulation shall be defrayed out of moneys to be provided by Parliament;

- (m) if any witness objects to answer any question or to produce any document on the ground that it may tend to incriminate him, or on any other lawful ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalty in respect of such refusal.

Rehearing
of public
inquiries

12. (1) The President may, in any case where a public inquiry has been held, direct a rehearing of the inquiry either generally or as to any part thereof and shall do so —

- (a) if new and important evidence has been discovered or
- (b) if for any other reason there is in his opinion ground for suspecting that a miscarriage of justice has occurred.

(2) If the President directs any inquiry to be reheard he may order that the inquiry shall be reheard either by the court by whom the inquiry was heard in the first instance or by some other person appointed by him to hold the rehearing.

(3) Any rehearing shall be subject to and conducted in accordance with the provisions of these Regulations relating to the holding of public inquiries.

Investigation
by competent
authority of
other coun-
try

13. Where an accident has occurred in or over Guyana to an aircraft registered in any country or territory other than Guyana, the President may authorise an investigator appointed by the duly competent authority of that other country or territory to carry out an investigation, and in that event the President shall so far as he is able facilitate inquiries by the investigator so appointed.

Accredited
representa-
tives of other
countries

14. Where an Inspector's investigation or a public inquiry relates to an accident which has occurred in or over Guyana to an aircraft registered in any country or territory other than Guyana, an accredited representative of the country or territory in which the aircraft is registered, or of any country or territory which has, on request, furnished information in connection with the accident, may take part in the investigation or in the inquiry as the case may be, and he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the country by which he is appointed.

Obstructors.

15. (1) A person shall not obstruct or impede the court or an Inspector or an assessor or any person acting under the authority of the President in the exercise of any powers or duties under these Regulations.

(2) A person shall not without reasonable excuse (proof whereof shall lie on him) fail, after having had the expenses, if any, to which he is entitled tendered to him, to comply with any summons or requisition of the court holding a public inquiry or an Inspector holding an investigation under these Regulations.

16. (1) Nothing in these Regulations shall limit the powers of any authority under the Wrecks Removal Act. Savings
Cap. 49:08

(2) Nothing in these Regulations shall limit the powers of the President under the Act of cancelling, suspending or endorsing any licence, certificate or other document.

17. Any person contravening or failing to comply with these Regulations or any provision thereof, shall be liable on summary conviction to a fine of five hundred dollars or to imprisonment for a term of six months. Penalty.

18. The Air Navigation (Investigation of Accidents) Regulations, 1938 are hereby revoked. Revocation.

Made this 8th day of December, 1982.

L. F. S. Burnham.
President

