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## CIVIL AVIATION (OCCURRENCE REPORTING AND INVESTIGATION) REGULATIONS 2009

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CIVIL AVIATION ACT  
(CAP. 174)

**CIVIL AVIATION (OCCURRENCE REPORTING  
AND INVESTIGATION) REGULATIONS 2009**

IN exercise of the powers conferred upon me by section 4 of the Civil Aviation Act 1976,  
I make these Regulations—

PART 1—PRELIMINARY

*Citation and commencement*

1.—(1) These Regulations may be cited as the Civil Aviation (Occurrence Reporting and Investigation) Regulations 2009.

(2) These Regulations comes into force from the date of publication in the *Gazette*.

*Application*

2.—(1) These regulations apply to all occurrences that occur—

- (a) in the Fiji Islands, except for occurrences that solely involve the operation of aircraft operated by Military forces and where such aircraft are not on the civil register of Fiji or a Contracting State; and
- (b) to aircraft registered in the Fiji Islands when such aircraft is over the high seas or over the territory of a non-contracting State; and
- (c) to aircraft not registered in the Fiji Islands but leased, chartered or interchanged to the Fiji Islands and Fiji is the State of Operator, when such aircraft is over the high seas or over the territory of a non-contracting State.

(2) The Authority shall initiate an investigation into any serious incident or incident that occurs in the Fiji territorial airspace.

(3) The Authority may initiate an investigation into any serious incident or incident that occurs in airspace administered by Fiji but shall liaise with the State of Registry and the State of the Operator.

*Interpretation*

3.—(1) In these Regulations—

“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, and the engine or any propellers or rotors come to rest, being an occurrence in which—

- (1) a person is fatally or seriously injured as a result of—
  - (a) being in the aircraft; or

- (b) direct contact with any part of the aircraft, including any part that has become detached from the aircraft; or
  - (c) direct exposure to jet blast—
    - except when the injuries are self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to passengers and crew; or
- (2) the aircraft sustains damage or structural failure that—
- (a) adversely affects the structural strength, performance, or flight characteristics of the aircraft; and
  - (b) would normally require major repair or replacement of the affected component—
    - except engine failure or damage that is limited to the engine, its cowlings, or accessories; or damage limited to propellers, wing tips, rotors, antennas, tyres, brakes, fairings, small dents, or puncture holes in the aircraft skin; or
- (3) the aircraft is missing or is completely inaccessible;
- “accredited representative” means a person designated by a State, on the basis of his or her qualifications, for the purpose of participating in an investigation conducted by another State;
- “adviser” means a person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation;
- “aeronautical component” means any facility or part thereof that is used for aeronautical service;
- “aeronautical service” means any service that relates to air navigation;
- “aircraft” means any machine that can derive support in the atmosphere from reactions in the air other than the reactions of the air against the earth’s surface;
- “Annex” means one of the Annexes to the Convention;
- “Authority” means the Civil Aviation Authority of the Fiji Islands established under the Civil Aviation Authority of the Fiji Islands Act (CAP. 174A);
- “causes” means actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident;
- “Convention” means the Convention on International Civil Aviation signed at Chicago in 1944;
- “fatal injury” means any injury that results in death within 30 days of the accident;
- “flight recorder” means any type of recorder installed in the aircraft for the purpose of complementing accident/incident investigation;
- “ICAO” means the International Civil Aviation Organization;
- “incident” means an occurrence, other than an accident, associated with the operation of an aircraft that affects or could affect the safety of operation;
- “investigation” means a process conducted for the purpose of accident prevention that includes gathering and analysis of information, the drawing of conclusions,

including the determination of causes and, when appropriate, the making of safety recommendations;

“Investigator-in-charge” means a person charged, on the basis of his or her qualifications, with the responsibility for the organisation, conduct and control of an investigation;

“maximum mass” means the maximum certificated take-off mass;

“occurrence” means an accident or incident;

“operational control” means the exercise, by a person, of authority over the initiation, continuation, diversion, termination or cancellation of a flight or series of flights in the interest of the safety of the aircraft and the regularity and efficiency of such flight;

“operator” means the person who exercises operational control over an aircraft;

“preliminary report” means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;

“safety recommendation” means a proposal of the accident investigation authority of the State conducting the investigation based on information derived from an investigation and made with the intention of preventing accidents or incidents;

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

“serious injury” means an injury that is sustained by a person in an accident and that—

(a) requires hospitalisation for more than 48 hours, commencing within seven days from the date the injury was received; or

(b) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); or

(c) involves lacerations which cause severe haemorrhage, nerve, muscle, or tendon damage; or

(d) involves injury to an internal organ; or

(e) involves second or third degree burns, or any burns affecting more than 5% of the body surface; or

(f) involves verified exposure to infectious substances or injurious radiation;

“State of Design” means the State having jurisdiction over the organisation responsible for the type design;

“State of Manufacture” means the State having jurisdiction over the organisation responsible for the final assembly of the aircraft;

“State of Occurrence” means the State in the territory of which an accident or incident occurs;

“State of Registry” means the State on whose register the aircraft is entered;

“State of the Operator” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence.

*Occurrence reporting and investigation manual*

4. The Authority may, with the approval of the Minister, issue an occurrence reporting and investigation manual in accordance with the standards prescribed by ICAO.

*Language*

5. The notification, preliminary and final reports and any safety recommendations shall be prepared in the English language or any other working languages of ICAO, taking into account the language of the recipient, whenever it is possible to do so without causing undue delay.

## PART 2—OCCURRENCE NOTIFICATION

*Notification of accidents to the Authority*

6.—(1) The pilot-in-command of an aircraft that is involved in an accident, or the operator of such aircraft if the pilot-in-command is killed or seriously injured shall notify the Authority of the accident by the most expeditious means available.

(2) The notification under sub regulation (1) shall—

- (a) be made within 96 hours of the occurrence; and
- (b) be in a form or by other means acceptable to the Authority; and
- (c) contain as much of the following information as is readily available—
  - (i) manufacturer, model, nationality and registration marks, and serial number of the aircraft;
  - (ii) name of owner, operator and hirer, if any, of the aircraft;
  - (iii) name of the pilot-in-command;
  - (iv) type of operation;
  - (v) meteorological conditions in the vicinity of the accident site (cloud cover, precipitation, wind velocity, visibility, any hazard such as fog or wind shear);
  - (vi) date and time (local time or UTC) of the accident;
  - (vii) last point of departure and point of intended landing of the aircraft;
  - (viii) position of the aircraft with reference to some easily defined geographical point and latitude and longitude;
  - (ix) number of crew and passengers on board;
  - (x) number of crew and passengers killed and seriously injured; others, killed and seriously injured;
  - (xi) nature of the accident and the extent of damage to the aircraft so far as is known;
  - (xii) identification and contact details of the person making the notification;
  - (xiii) location and description of any dangerous goods on board.

*Details of accident*

7.—(1) Notwithstanding Regulation 6, the pilot-in-command of an aircraft that is involved in an accident, or the operator if the pilot-in-command is killed or seriously injured

or if the aircraft is missing, shall provide the full information required under Regulation 6 (2)(c) to the Authority within 7 working days of the accident.

(2) Where flight crew members additional to the pilot-in-command are carried, each such surviving flight crew member shall provide a statement on his or her knowledge of the conditions and circumstances leading to the accident within 96 hours of the event to the Investigator-in-charge.

(3) Where a flight crew member is unable to provide the required statement due to incapacity, he or she is required to make and submit the statement to the Investigator-in-charge as soon as the flight crew member has sufficiently recovered to be able to do so.

*Notification of incidents to the Authority*

8.—(1) Any person who is involved in a serious incident or incident or who maintains, services, operates or performs any other activity in relation to an aircraft, an aeronautical component or aeronautical service shall notify the Authority of the serious incident or incident by the most expeditious means available.

(2) The notification under sub regulation (1) shall be made within 96 hours of the incident and shall be in the notified Mandatory Occurrence Reporting form or by other means acceptable to the Authority.

(3) The notification under sub regulation (1) shall contain as much of the required information prescribed under regulation 9, as is readily available, but its dispatch shall not be delayed due to the lack of complete information.

*Details of incident*

9.—(1) The Authority may categorise incidents as follows—

- (a) a serious incident; or
- (b) any other incident.

(2) Any person who has notified the Authority of a serious incident shall provide, within 96 hours since the event, those occurrence details that the Authority has notified as being required in addition to any that may have been provided as part of the serious incident notification.

(3) Any person who has notified the Authority of an incident shall provide, within 7 days since the event, those occurrence details that the Authority has notified as being required in addition to any that may have been provided as part of the incident notification.

(4) The Authority may categorise incidents in the following different categories for the purpose of requiring information of different data set—

- (a) aerodrome incidents;
- (b) aircraft incidents;
- (c) airspace incidents;
- (d) bird incidents;
- (e) dangerous goods incidents;

- (f) defect incidents;
- (g) facility malfunction incidents;
- (h) published information incidents;
- (i) security incidents; or
- (j) other (related) incidents.

*Notification to other parties*

10.—(1) The Authority shall notify the Minister of any accident as soon as practicable by the most expeditious means available and when such advice is given orally, then it shall be followed up with further information in writing, as soon as practicable.

(2) The Minister may delegate any further notification requirements to the Authority.

(3) The Minister shall forward notification of an accident and the Authority shall forward notification of a serious incident with a minimum of delay and by the most suitable and quickest means available to—

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture; and
- (e) ICAO when the aircraft involved is of a maximum mass of over 2250 kg.

(4) The format and content of the notification to other parties of any accident or incident shall include the following information—

- (a) for accidents the identifying abbreviation ACCID, for serious incidents INCID;
- (b) manufacturer, model, nationality and registration marks, and serial number of the aircraft;
- (c) name of owner, operator and hirer, if any, of the aircraft;
- (d) name of the pilot-in-command, and nationality of crew and passengers;
- (e) date and time (local time or UTC) of the accident or serious incident;
- (f) last point of departure and point of intended landing of the aircraft;
- (g) position of the aircraft with reference to some easily defined geographical point and latitude and longitude;
- (h) number of crew and passengers; aboard, killed and seriously injured; others, killed and seriously injured;
- (i) description of the accident or serious incident and the extent of damage to the aircraft so far as is known;
- (j) an indication to what extent the investigation will be conducted or is proposed to be delegated by the State of Occurrence;



- (k) physical characteristics of the accident or serious incident area, as well as an indication of access difficulties or special requirements to reach the site;
- (l) identification and means to contact the Investigator-in-charge and the accident investigation authority of the State of Occurrence at any time;
- (m) presence and description of dangerous goods on board the aircraft;
- (n) type of operation;
- (o) meteorological conditions in the vicinity of the accident site (cloud cover, precipitation, wind velocity, visibility, any hazard such as fog or wind shear).

(5) The dispatch of the information required under sub regulation (3) shall not be delayed due to the lack of complete information.

### PART 3—OCCURRENCE INVESTIGATION

#### *Objective of an investigation*

11. The sole objective of an occurrence investigation shall be the prevention of accidents and incidents and not to apportion blame or liability.

#### *Authority, appointment and independence of an Investigator-in-charge*

12.—(1) When an accident occurs in Fiji, the Minister has the power to appoint an Investigator-in-charge of the investigation and the investigation shall be initiated immediately.

(2) When a serious incident or an incident occurs in Fiji, the Authority has the power to appoint an Investigator-in-charge of the investigation and the investigation shall be initiated immediately.

(3) The persons appointed under sub regulations (1) and (2) shall have independence in the conduct of any investigation carried out under these Regulations.

(4) The Investigator-in-charge shall have unrestricted authority over the conduct of the investigation.

(5) In the case of investigations carried out, at the Minister's request, by an external party, the Authority may appoint an investigator, whose role in these events will primarily be to provide any required coordination and assistance to the Investigator-in-charge and monitor the State's interests in the investigation.

#### *Function of an Investigator-in-charge*

13. The functions of the Investigator-in-charge are—

- (a) gathering, recording and analysing of all available information on the occurrence;
- (b) issuing of safety recommendations;
- (c) if possible, the determination of the causes of the occurrence; and
- (d) the completion of the final report.

*Access and control of Investigator-in-charge*

14.--(1) The powers of the Investigator-in-charge are to have--

- (a) unhampered access to the wreckage and all relevant material, including flight, cockpit voice, video or other recorders and air traffic service records of the occurrence; and
- (b) authority to determine the extent of any accident site.

(2) The police shall normally control access to the accident site during the containment, control and rescue phase of the accident aftermath and the investigator-in-charge shall then be given unrestricted control over the site to ensure that a detailed examination can be made without delay by any authorised personnel participating in the examination.

(3) The Investigator-in-charge shall arrange for the read-out of any flight or other recorders as soon as practicable.

*Other powers of the Investigator-in-charge*

15. The powers of the Investigator-in-charge are--

- (a) to have access to and examine any aircraft, aeronautical part or aeronautical service and the place where the event occurred and, for that purpose, to require any such aircraft, part or service or any part or equipment thereof to be preserved unaltered pending examination;
- (b) to examine, remove, test, take measures for the preservation of, or otherwise deal with the aircraft, aeronautical part or aeronautical service or any part thereof or anything contained therein;
- (c) to enter and inspect any premises associated with the manufacture, maintenance or operation of aircraft during business hours, or at any time in the execution of a warrant obtained by the judicial process, for the purposes of the investigation;
- (d) to enter and inspect any residential premises between the hours of 8.00 am and 6.00 pm on any day other than a Sunday, or at any time in the execution of a warrant obtained by the judicial process, for the purposes of the investigation; and
- (e) to delegate, as necessary, any of these powers for the purpose of facilitating the investigation.

*Participation in an investigation*

16.--(1) The State of Registry, the State of the Operator, the State of Design and the State of Manufacture are each entitled to appoint an accredited representative to participate in the investigation.

(2) The State of Registry or the State of the Operator are entitled to appoint one or more advisers, proposed by the operator, to assist its accredited representative.

(3) When an accredited representative is not appointed pursuant to sub regulation (2), the Minister may invite the operator to participate.

(4) The State of Design and the State of Manufacture are entitled to appoint one or more advisers, proposed by the organizations responsible for the type design and the final assembly of the aircraft, to assist their accredited representatives.

(5) When an accredited representative is not appointed pursuant to sub regulation (4), the Minister may invite the organizations responsible for the type design and the final assembly of the aircraft to participate.

(6) Any State which on request provides information, facilities or experts shall be entitled to appoint an accredited representative to participate in the investigation.

(7) Any State that provides an operational base for field investigations, or is involved in search and rescue or any wreckage recovery operations, or is involved as a State of a code-share or alliance partner of the operator, may also be invited to appoint an accredited representative to participate in the investigation.

(8) A State entitled to appoint an accredited representative shall also be entitled to appoint one or more advisers to assist the accredited representative in the investigation.

(9) Any participant in the investigation shall be entitled to participate in all aspects of the investigation, under the control of the Investigator-in-charge, in particular to—

- (a) visit the scene of the accident;
- (b) examine the wreckage;
- (c) obtain witness information and suggest areas of questioning;
- (d) have full access to all relevant evidence as soon as possible;
- (e) receive copies of all pertinent documents
- (f) participate in read-outs of recorded media;
- (g) participate in off-scene investigative activities such as component examinations technical briefings, tests and simulations;
- (h) participate in investigation progress meetings including deliberations related to analysis, findings, causes and safety recommendations; and
- (i) make submissions in respect of the various elements of the investigation.

(10) A State with a special interest in an accident by virtue of fatalities or serious injuries to its citizens shall, if it so requests, be permitted to appoint an expert who shall be entitled to—

- (a) visit the scene of the accident;
- (b) have access to relevant factual information;
- (c) participate in the identification of victims;
- (d) assist in questioning surviving passengers who are citizens of the expert's State; and
- (e) receive a copy of the Final Report.

(11) The investigator-in-charge may invite or permit any other person to participate where such participation would assist in the prevention of accidents and incidents and enhancement of aviation safety.

(12) Where Fiji is not the State of Occurrence, the Minister, in accordance with the relevant provisions of Annex 13, may—

- (a) appoint an accredited representative or advisers, including advisers from the operator; or
- (b) send an expert when Fiji has suffered fatalities or serious injuries to its citizens.

(13) When Fiji exercises its option to appoint accredited representatives, advisers or experts, the relevant authority making the appointment shall inform the State conducting the investigation of the relevant details of such appointment.

*Request from other States*

17.—(1) When a request is received from—

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design; or
- (d) the State of Manufacture,

that the aircraft, its contents, and any other evidence remain undisturbed pending inspection by an accredited representative of the requesting State, the Minister shall take all necessary steps to comply with such request, so far as this is reasonably practicable and compatible with the proper conduct of the investigation.

(2) If a State other than Fiji is conducting the investigation, the Authority shall provide such State with all the required information in accordance with the provisions of Annex 13.

*Certain organisations to carry out investigations*

18.—(i) The following organisations shall, as part of the operation of their safety management systems, carry out an internal investigation whenever that organisation is involved in an accident or serious incident,—

- (a) aerodrome operators to or from which air transport operations are conducted;
- (b) aeronautical navigation facility service providers;
- (c) aeronautical information service providers;
- (d) air traffic service providers;
- (e) air transport operators;
- (f) meteorological service providers;
- (g) providers of maintenance or airworthiness services to air transport operators domiciled in Fiji; and
- (h) security service providers.

(2) An organisation carrying out an internal investigation under sub regulation (1) shall—

- (a) promptly make available to the Investigator-in-charge information on the progress of, and the report on, that internal investigation; and
- (b) complete the investigation within 90 days unless the Investigator-in-charge approves or requires otherwise.

*Requirements for medical examination*

19.—(1) When conducting an investigation into an accident, the Investigator-in-charge shall have the right, for the purpose of safety investigation, to require—

- (a) a complete autopsy examination of fatally injured flight crew and, subject to the circumstances, of fatally injured passengers and other crew members, by a pathologist, preferably experienced in accident investigation, in accordance with guidelines as notified by the ICAO; and
- (b) ensure that these examinations are conducted expeditiously and completely.

(2) When appropriate, the Investigator-in-charge shall arrange for a medical examination of the crew, passengers and involved aviation personnel, by a physician, preferably experienced in occurrence investigation.

(3) The examinations referred to in sub regulation (2) shall be expeditious and shall also determine whether the level of physical and psychological fitness of flight crew and other personnel is sufficiently adequate for such personnel to contribute to the investigation.

*Action required in certain cases*

20.—(1) The Investigator-in-charge shall recognise the need for coordination with relevant authorities. Particularly, attention shall be given to evidence that requires prompt recording and analysis for the investigation to be successful, such as the examination and identification of victims and read-outs of flight data recordings.

(2) If, during the investigation, it becomes known that an act of unlawful interference was involved, the Investigator-in-charge shall immediately inform the Authority's aviation security department of such act.

*Re-opening of an Investigation*

21. If new and significant information becoming available, the investigation shall be re-opened.

*Power to dispose of defective products*

22.—(1) If the Investigator-in-charge has taken possession of any aircraft, component or aeronautical product during an investigation and finds that the item or items are unserviceable and cannot be repaired or refurbished to a state of serviceability, then the Authority has the right to require—

- (a) the surrender of the parts to the Authority; or
- (b) their disposal in a manner acceptable to the Authority.

(2) Any monies received by the sale of such items shall be disbursed to the owner of the item, less any costs incurred by the Authority in arranging for their disposal.

#### PART 4—PRESERVATION OF AIRCRAFT, CONTENTS AND RECORDS

##### *Preservation of records*

23.—(1) The operator of any aircraft that is involved in an occurrence shall take all steps necessary to ensure the retention and preservation of all records, unaltered and on whatever medium, in relation to—

- (a) the airworthiness;
- (b) maintenance; and
- (c) operation of that aircraft

for a period of 30 days after the event or such other period as the Investigator-in-charge or Authority may require or approve.

(2) An air traffic service provider that is or may be involved in an occurrence shall retain and preserve unaltered all records, on whatever media, relevant to the provision of that service for a period of 30 days after the event or such other period as the Investigator-in-charge may require or approve.

(3) In the event of an accident or serious incident, an air traffic service provider shall retain and preserve all available records for the last 30 minutes of an aircraft's flight so that the aircraft's flight path may be determined to the highest degree of accuracy.

##### *Protection of evidence*

24.—(1) The Investigator-in-charge shall take all reasonable measures to protect evidence and to maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of an investigation.

(2) In this regulation—

“protection of evidence” includes the preservation, by photographic or other means of any evidence that might be removed, effaced, lost or destroyed; and

“safe custody of evidence” shall, where possible, include protection against further damage, access by unauthorized persons, pilfering and deterioration.

##### *Access to aircraft involved in an accident*

25.—(1) Personnel and vehicles of the police, the fire and rescue service, and ambulance and medical services shall have access for the purposes of—

- (a) removal of persons or livestock from the aircraft or its wreckage;
- (b) protection of property from further damage;
- (c) disconnection or deactivation of any data recorder or emergency beacon; and
- (d) the prevention of obstruction to the public or to air navigation where no reasonable alternative exists.

(2) Any property, whether aircraft or its contents, removed under the provisions of paragraph (1) shall—

- (a) be removed only to the extent necessary for its safety and protection; and
- (b) be kept in such a manner so as its original position is reasonably ascertainable, with photographs, sketches or notes made where such would assist; and
- (c) if the aircraft's flight originated outside Fiji, be kept as secure as possible until it is inspected and processed by relevant Customs and Quarantine services personnel.

(3) Subject to sub regulation (1), no person shall have access to the site of an occurrence or interfere with, or remove, an aircraft that is involved in an accident or its contents, except with the approval of and under conditions acceptable to the Investigator-in-charge.

*Release from custody*

26. The Investigator-in-charge shall release from custody, to any person designated by the State of Registry or the State of the Operator, the aircraft, its contents and any parts thereof as soon as they are no longer required for the investigation.

*Retention of components and products*

27. Any person who uses or operates an aviation related product or component that is or could be relevant to an occurrence investigation shall retain that product or component for a period of 30 days after the event or such other period as the Investigator-in-charge may require or approve.

#### PART 5—ACCIDENT REPORTING REQUIREMENTS

*Preliminary, Accident and Incident Data Reports*

28.—(1) When the aircraft involved in an accident is of a maximum mass of over 2250 kg, the Minister shall send the Preliminary Report to the following if they are not the State of Occurrence—

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design;
- (d) the State of Manufacture;
- (e) any State that provided relevant information, significant facilities or experts; and
- (f) the ICAO.

(2) When an aircraft involved in an accident is of a maximum mass of 2250 kg or less and when airworthiness or matters considered to be of interest to other States are involved, the Minister shall forward the Preliminary Report to all parties stated in sub regulation (1) except to the ICAO.

(3) When matters directly affecting safety are involved, the preliminary report shall be sent as soon as the information is available and by the most suitable and quickest means available.

(4) When an investigation under sub regulation (1) is complete, the Minister shall send the Accident Data Report to ICAO as soon as practicable.

(5) The Preliminary Report shall be sent by facsimile, e-mail, or airmail within thirty days of the date of the accident unless the Accident and/or Incident Data Report has been sent by that time.

*Draft Final Report*

29.—(1) The Minister shall not circulate, publish or give access to a draft Final Report or any part thereof, or any documents obtained during an investigation of an accident without the express consent of the State which conducted the investigation (the State of Occurrence), unless such reports or documents have already been published or released by that State.

(2) The Investigator-in-charge shall not circulate, publish or give access to a draft Final Report or any part thereof, or any documents obtained during an investigation of an incident without the express consent of the Authority, unless such reports or documents have already been published or released.

(3) The Minister shall send a copy of the draft Final Report to all States that participated in the investigation, inviting their significant and substantiated comments on the report as soon as possible.

(4) The draft Final Report of the investigation shall be sent for comments to—

- (a) the State of Registry;
- (b) the State of the Operator;
- (c) the State of Design; and
- (d) the State of Manufacture. (whichever is applicable)

(5) If comments are received within sixty days of the date of the transmittal letter, the Minister shall forward the comments to the Investigator-in-charge, who shall—

- (a) amend the draft Final Report to include the substance of the comments received;
- (b) provide justification for the rejection of the comments; or
- (c) if so desired by the State that provided comments, append the comments to the Final Report.

(6) If no comments are received within sixty days of the date of the first transmittal letter, the Minister shall issue the Final Report in accordance with Annex 13 requirements, unless an extension of that period has been agreed by the States concerned.

*Final Report*

30.—(1) The Final Report of the investigation of an accident shall be sent with a minimum of delay by the State conducting the investigation (the State of Occurrence) to the following states, where applicable—

- (a) the State that instituted the investigation;
- (b) the State of Registry;
- (c) the State of the Operator;



- (d) the State of Design;
- (e) the State of Manufacture;
- (f) any State having suffered fatalities or serious injuries to its citizens;
- (g) any State that provided relevant information, significant facilities or experts; and
- (h) the Civil Aviation Authority of the Fiji Islands.

(2) The Minister shall, in the interest of accident prevention, release the Final Report as soon as possible.

(3) When the Investigator-in-charge has conducted an investigation into an accident or serious incident involving an aircraft of a maximum mass of over 5700 kg, the Minister or the Authority shall send a copy of the Final Report to the ICAO.

#### PART 6—RECORDING AND PREVENTATIVE MEASURES

##### *Confidentiality*

31. When a person submits information pursuant to the notification of accidents and incidents requirements and requests confidentiality, the Authority, Minister or the Investigator-in-charge shall—

- (a) remove any information indicating the identity of the source of the material as soon as practicable; and
- (b) make no other record of material removed under paragraph (a).

##### *Non-disclosure*

32.—(1) The following records shall not be made available for purposes other than accident or incident investigation, unless the Attorney General determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigations—

- (a) all statements taken from persons by the investigation authorities in the course of their investigation;
- (b) all communications between persons having been involved in the operation of the aircraft;
- (c) medical or private information regarding persons involved in the accident or incident;
- (d) cockpit voice, flight data and relevant air traffic service recordings and transcripts from such recordings; and
- (e) opinions expressed in the analysis of information, including any relevant recorder information.

(2) The relevant records in sub regulation (1)(a) to (e) shall only be included in the Final Report or its appendices when pertinent to the analysis of the accident or incident.

##### *Occurrence reporting systems*

33.—(1) The Authority shall establish a mandatory occurrence reporting system to facilitate collection of information on actual or potential safety deficiencies.

(2) Notwithstanding sub regulation (i), the Authority shall establish a voluntary incident reporting system to facilitate the collection of information that may not be captured by a mandatory occurrence reporting system.

(3) The voluntary incident reporting system shall be non-punitive and afford protection to the sources of the information and the data from this system shall not be used by any party for other than safety purposes.

*Database systems*

34.—(1) The Authority shall establish an occurrence database to facilitate the effective analysis of information obtained, including that from its occurrence reporting systems.

(2) The database systems may use standard formatting to facilitate data exchange.

*Analysis of data*

35.—(1) When the Authority has established an occurrence database and a voluntary incident reporting system, it shall analyse the information contained in its accident and incident reports and the database to determine any preventive actions required.

(2) If the Authority, in the analysis of the information contained in its database, identifies safety matters considered to be of interest to other States, the Authority shall forward such safety information to them as soon as possible.

(3) The Authority may promote the sharing of safety information at all levels of the aviation system and may facilitate the free exchange of information on actual and potential safety deficiencies.

*Authority may require additional data reports*

36.—(1) In addition to the requirement for the reporting of occurrence data, the Authority may also require routine and/or special reports to the Authority of such data as is necessary for the effective analysis and comparison of aviation safety performance from time to time and with the performance of other States from—

- (a) air transport operators;
- (b) aviation training institutions;
- (c) aerodrome operators;
- (d) air traffic service providers; and
- (e) other participants in the aviation industry.

(2) This data can include, but is not limited to—

- (a) hours flown and sectors flown by aircraft;
- (b) movements at a particular aerodrome; and
- (c) flight plans lodged or flights handled in any particular airspace over any particular period of time.

*Safety recommendations*

37.—(1) At any stage of the investigation of an occurrence, the Investigator-in-charge shall recommend to the appropriate authorities, including those in other States, any preventative action that is considered necessary to be taken promptly to enhance aviation safety.

(2) Any safety recommendations shall be addressed, where appropriate, to the accident investigation authority of the State concerned.

(3) Any safety recommendations received by Fiji from another State shall be acknowledged by the Authority, together with advice of the action taken or under consideration, or the reasons why no action will be taken.

#### PART 7 – COST OF ACCIDENT INVESTIGATION

##### *Cost Recovery*

38. – (1) Whilst the Republic of the Fiji Islands will initiate any accident investigation and require the Authority to provide technical and other support, whether or not blame is attributable for the accident, the provisions of the ICAO policy on charges (Doc 9082 ICAO's Policies on Charges for Airport and Air Navigation Services – Appendix 2) will apply.

(2) Under the provisions of sub regulation (1), costs and appropriate overheads will be recoverable from those who are involved in any accident at a rate set by Government and advised from time to time by the Authority in an Aeronautical Information Circular (AIC).

#### PART 8 – MISCELLANEOUS

##### *Saving*

39. Nothing in these Regulations shall limit the power of the Authority under the provisions of the Air Navigation Regulations of cancelling, suspending or endorsing any licence, certificate or other document.

##### *Revocation*

40. The Civil Aviation (Investigation of Accidents) Regulations 1952 is revoked.

DATED this 18th day of March 2009.

J. V. BAINIMARAMA  
Prime Minister  
Minister for Foreign Affairs,  
International Cooperation and Civil Aviation