

CIVIL AVIATION ACT
(Cap. 77:01)

CIVIL AVIATION (INVESTIGATION OF ACCIDENTS) REGULATIONS,
1983

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IN EXERCISE of the powers conferred on the Minister of Works and Communications by section 16 of the Civil Aviation Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Civil Aviation (Investigation of Accidents) Regulations, 1983, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint. Citation and commencement
2. In these Regulations, unless the context otherwise requires, — Interpretation
“accident” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and the time all such persons have disembarked and in which —
 - (a) a person is fatally or seriously injured as a result of being in or upon the aircraft or by direct contact with the aircraft or anything attached thereto or by direct exposure to jet blast, except where the injuries are from natural causes, self-inflicted or inflicted by some other person or are to stowaways hiding outside the area normally available to the passengers or crew;

(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, other than —

(i) engine failure; or

(ii) damage limited to the engines or their accessories or to propeller or rotor blades, bent fairings or cowlings, wing tips, antennas, tires, brakes or small dents or puncture holes in the aircraft skin; or

(c) the aircraft is missing or completely inaccessible;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“commander”, in relation to an aircraft, means the member of the crew designated as commander of the aircraft by the operator thereof or, failing such a person, the pilot in command;

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

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“customs officer” has the meaning assigned to the expression “officer” by the Customs and Excise Duty Act;

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

“owner”, in relation to a registered aircraft, means the registered owner of the aircraft;

“pilot in command”, in relation to an aircraft, means the 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;

“seriously injured” means injured to such an extent as to —

(a) require hospitalization for more than 48 hours, commencing within 7 days immediately after the day on which the injury in question was received;

(b) involve a fracture of any bone, except a simple fracture of a finger or toe or the nose;

(c) involve lacerations which cause severe bleeding or nerve, muscle or tendon damage;

(d) involve injury to any internal organ; or

(e) involve second or third degree burns or burns affecting more than 5 per cent of the body surface;

“State of manufacture”, in relation to an aircraft, means the State, other than Botswana, responsible for the certification as to the airworthiness of the prototype of the aircraft;

“State of occurrence”, in relation to an accident, means the State, other than Botswana, in or over the territory of which the accident occurred;

“State of registry”, in relation to an aircraft, means the State, other than Botswana, on the register of which the aircraft is entered.

(2) An aircraft shall be deemed, for the purposes of these Regulations, to be missing if the official search for the aircraft has been terminated and its wreckage has not been located.

Application
of
Regulations

3. (1) These Regulations shall apply to accidents which occur in or over Botswana or involve Botswana aircraft wherever they may be.

(2) For removing doubts, it is hereby declared that the application of these Regulations extends to civil aviation alone.

4. The principle purpose of investigating an accident under these Regulations shall be to determine the circumstances and causes of the accident with a view to the preservation of life and the avoidance of similar accidents in future rather than to ascribe blame to any person.

Main
purpose of
accident
investiga-
tions

5. (1) In the event of an accident to which these Regulations apply, the commander of the aircraft involved at the time of the accident or, if the commander be killed or incapacitated, the operator of the aircraft shall forthwith give notice thereof to the Director by the quickest means of communication reasonably available and, in the case of an accident occurring in or over Botswana, shall also forthwith notify the Botswana Police Force of the accident and the place where it occurred.

Duty to
furnish
Director
with
information
relating
to
accidents

(2) The notice given to the Director in accordance with subregulation (1) shall commence with the identifying abbreviation ACCID and shall thereafter be in plain language and contain so much of the following information as is readily available so that its dispatch is not delayed —

- (a) the type, model, nationality and registration marks of the aircraft;
- (b) the names of the owner, operator and hirer, if any, of the aircraft;
- (c) the name of the pilot in command;
- (d) the date and Greenwich mean time of the accident;
- (e) the last point of departure and next point of intended landing of the aircraft;
- (f) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude;
- (g) the number of persons —
 - (i) on board the aircraft at the time of the accident;
 - (ii) on board the aircraft at that time killed as a result of the accident;
 - (iii) on board the aircraft at that time seriously injured as a result of the accident;
 - (iv) not on board the aircraft at that time killed as a result of the accident; and
 - (v) not on board the aircraft at that time seriously injured as result of the accident;
- (h) the nature of the accident and brief particulars of the damage to the aircraft;
- (i) where applicable, an indication of the extent to which the investigation of the accident is to be conducted or is proposed to be delegated by the State of occurrence;
- (j) the physical characteristics of the area in which the accident occurred; and
- (k) the identity of the person giving notice.

(3) As soon as it is reasonably practicable to do so, information omitted from the notice given to the Director in accordance with subregulation (1), together with all other known information relevant to the accident in question, shall be sent to the Director.

(4) Where an accident to which these Regulations apply occurs, whether in or over Botswana or elsewhere, the owner, operator, commander or hirer of the aircraft involved shall, if so required by

notice in writing served on him by the Director, send to the Director, within such time as may be specified in the notice, such information in his possession or control with respect to the accident in such form as the Director may require.

Duty of Director to furnish information relating to accidents in Botswana involving foreign aircraft

6. (1) In the event of an accident occurring in or over Botswana involving a foreign aircraft, the Director —

- (a) shall, on receiving information by virtue of regulation 5, forthwith transmit that information, by the most suitable means reasonably available, to the State of manufacture and the State of registry; and
- (b) may authorize an investigator appointed by the duly competent authority of the State of registry to carry out, subject to such directions or limitations as the Director may give or impose, an investigation of the accident in Botswana and in that event the Director shall, so far as he is reasonably able, facilitate inquiries by the investigator so authorized.

(2) Information contained in the notice given the Director in accordance with regulation 5 (1) shall be transmitted by the Dir(1) (a), in the order indicated by regulation 5 (2) and the Director in accordance with subregulation shall, at the same time, provide an indication of the extent to which the investigation of the accident is to be conducted or is proposed to be delegated by Botswana.

(3) In addition to information received by him by virtue of regulation 5, the Director shall also forthwith transmit to the State of manufacture and the State of registry such other information relevant to the accident in question as may come into his possession.

Accidents in other States involving Botswana aircraft

7. (1) In the event of an accident occurring in or over the territory of another Contracting State involving a Botswana aircraft, the Director shall, on being notified of the accident, forthwith transmit to the State of occurrence, by the most suitable means reasonably available, all relevant information in his possession regarding the aircraft and its flight crew at the time of the accident and, at the same time, inform the State of occurrence whether Botswana intends or does not intend at the investigation to be represented of the accident and, if it does so intend, indicate the probable date of arrival in that State of Botswana's accredited representative.

(2) Where, in the event of an accident occurring in or over the territory of another Contracting State involving a Botswana aircraft, the State of occurrence notifies its wish to delegate to Botswana the whole or any part of the investigation of the accident, the Director shall make appropriate arrangements and the Inspector of Accidents in charge of the investigation or part thereof, as the case may be, shall conduct the same in accordance with these Regulations.

(3) In the event of an accident occurring in or over the territory of a non-Contracting State involving a Botswana aircraft, the Director shall use his best endeavours to secure the co-operation of the State of occurrence in order to bring about an investigation of the accident as if that State were a Contracting State; but in the event of the Director failing to bring about such an investigation, the accident shall be investigated by Botswana on the basis of such information as is available or may be obtained.

(4) Where, in the event of an accident involving a Botswana aircraft, the location of the accident cannot be established with certainty but the accident may have occurred in or over the territory of another State, the Director shall determine whether an investigation is or is not to be carried out and may, with the consent of the other State, delegate the whole or any part of the investigation to that State.

8. (1) In the event of an accident occurring in or over Botswana, no person other than an authorized person shall have access to the aircraft involved in the accident and the aircraft shall not be removed or otherwise interfered with except under the authority of the Director:

Removal
of damaged
aircraft

Provided that —

- (i) 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 other transport or, under the supervision of a police officer, for the purpose of removing any other property from the aircraft;
- (ii) if the aircraft is wrecked on the water, the aircraft and any of its contents may be removed to such extent as may be necessary for bringing it or them to safety.

(2) In this regulation, "authorized person" means any person authorized by the Director, either generally or specially, to have access to any aircraft involved in an accident or any police or customs officer.

9. In the event of an accident to which these Regulations apply, the Director alone shall determine whether an investigation into the circumstances and causes of the accident is or is not to be carried out.

Duty of
Director
to decide
whether
investigation
to be held
Inspectors of
Accidents

10. (1) For the purpose of carrying out investigations into the circumstances and causes of accidents to which these Regulations apply, the Director shall appoint persons to be called Inspectors of Accidents.

(2) Without prejudice to the power of an Inspector of Accidents to seek such advice or assistance as he may think necessary in making an investigation, the Director may, at the request of any Inspector of Accidents, appoint persons to assist the Inspector in a particular investigation and every such person shall, for the purpose of so doing, have such of the powers of an Inspector of Accidents under these Regulations as the Director may in writing specify in his case.

11. For the purpose of carrying out an investigation into the circumstances and causes of an accident to which these Regulations apply, an Inspector of Accidents may —

Powers of
Inspectors of
Accidents

- (a) by summons under his hand, call before him and examine all such persons as he thinks fit, require such persons to answer any question, furnish any information or produce any books, papers, documents and other articles whatsoever that he considers relevant and retain any such books, papers, documents and other articles until the completion of the investigation or of any public inquiry;
- (b) take statements from all such persons as he thinks fit and require any such person to make and sign a declaration of the truth of the statement made by him;

- (c) have access to and examine any aircraft involved in the accident and the place where the accident occurred and for that purpose require any such aircraft or any part or equipment thereof or anything contained therein to be preserved unaltered pending examination;
- (d) examine, remove, test, take measures for the preservation of or otherwise deal with any such aircraft or any part or equipment thereof or anything contained therein;
- (e) enter and inspect any place or building the entry or inspection of which appears to him to be requisite; and
- (f) take measures for the preservation of evidence.

Investigation
by Inspector
of Accidents

12. (1) This regulation shall apply in respect of every investigation by an Inspector of Accidents into the circumstances and causes of an accident to which these Regulations apply.

(2) Where the accident involved fatal injury to any person, public notice that the investigation is taking place shall be given in such manner as the Director may think fit and shall invite any persons who desire to make representations concerning the circumstances or causes of the accident to do so in writing within a time to be specified in the notice.

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

(4) Every person summoned by the Inspector of Accidents as a witness shall be allowed such expenses as the Director may, with the approval of the Minister for the time being responsible for finance, determine.

(5) Subject to regulation 13, upon completion of the investigation, the Inspector of Accidents shall make a report in writing to the Director.

(6) The report referred to in subregulation (5) shall state the circumstances of the accident and conclusions as to its causes, together with any observations and recommendations the Inspector of Accidents thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future.

Notice and
representations

13. (1) No report shall be made to the Director in accordance with regulation 12 unless the Inspector of Accidents has —

- (a) served notice in writing on the operator and commander of the aircraft involved in the accident and on any other person, including the Director, whose reputation is, in the opinion of the Inspector of Accidents, likely to be adversely affected by the report; and
- (b) considered every representation that may be made to him, in terms of subregulation (3), by or on behalf of the persons served with the notice.

(2) The notice served in terms of subregulation (1) (a) shall include particulars of any of those proposed findings and conclusions as to the circumstances and causes of the accident that may affect the persons on whom the notice is served.

(3) Any representation made by or on behalf of a person served with the notice in terms of subregulation (1) (a) shall be in writing and shall be served on the Inspector of Accidents within 28 days immediately after the day service of the notice on that person was effected:

Provided that the Inspector of Accidents may extend the period of 28 days prescribed by this subregulation, whether or not the same has expired.

(4) Any person on whom the notice has been served in terms of subregulation (1) (a) shall be served with a copy of the report made to the Director in accordance with regulation 12.

14. (1) Any person, other than the Director, who has been served with the notice in terms of regulation 13 (3) (a) may, within 21 days immediately after the day on which he was served with a copy of the report made to the Director in accordance with regulation 12, serve on the Director written notice (hereinafter referred to as "the notice of review") that he wishes those findings and conclusions in the report from which it appears that any degree of blame for the accident may be attributed to him, or to any deceased person whose executor, administrator or other personal representative he is, to be reviewed by a review board;

Review
board

Provided that the Director may extend the period of 21 days prescribed by this regulation, whether or not the same has expired.

(2) The review board shall consist of a person appointed by the Chief Justice sitting with such technical assessors, if any, as may be so appointed.

(3) The notice of review shall state concisely the grounds on which the findings and conclusions in the report are challenged and a copy thereof shall, at the same time it is served on the Director, be served on the Attorney-General and the person requesting the review shall inform the Attorney-General whether or not he proposes to be legally represented at the hearing of the review and of the name and address of the attorney, if any, acting for him or of any other person who will be representing him at the review.

(4) A copy of the notice of review shall also be served by the person requesting the review on each of the persons on whom the Inspector of Accidents has served the notice in terms of regulation 13 (1) (a); and for this purpose the person requesting the review may require the Inspector of Accidents to furnish him with the names and addresses of those persons.

(5) Where the Director, having made representations in terms of regulation 13, wishes those findings and conclusions in the report from which it appears that any degree of blame for the accident may be attributed to him to be reviewed by a review board, the Director shall, within 14 days immediately after the day of receipt by him of the report of the Inspector of Accidents, serve a notice of review on the Attorney-General and a copy thereof on each of the persons on whom the Inspector of Accidents has served the notice in terms of regulation 13 (1) (a).

(6) Where a notice of review has been served in terms of this regulation, the Director shall forthwith entrust the review to the review board appointed to undertake the review.

(7) The Director shall serve on the person requesting the review and on all persons on whom the Inspector of Accidents has served the notice in terms of regulation 13 (1) (a) not less than 21 days notice of the date, time and place of the hearing of the review (hereinafter referred to as "the notice of hearing").

(8) The hearing of the review shall be in public unless the review board determines, in relation to the whole or part of the review, that it is to be held in private in the interest of justice or in the public interest.

(9) The review board shall be assisted by the Attorney-General, or by an officer subordinate to him, who shall present any evidence required by the review board and may examine any witnesses giving evidence at the review.

(10) The person requesting the review shall be heard by the review board and may produce witnesses and examine any other witness giving evidence at the review.

(11) Before the date fixed for holding the review, the review board shall hold a preliminary meeting at which any directions may be given or any preliminary or interlocutory order as to the procedure may be made and notice of the date, time and place of the preliminary meeting shall be given by the Attorney-General to all those persons on whom the notice of hearing has been served and any person intending to make any application to the review board at the preliminary meeting shall give notice thereof to the Attorney-General.

(12) Any person, including the Director, who in the opinion of the review board may be affected by the review may be granted leave to appear and to produce witnesses and examine any other witnesses giving evidence at the review.

(13) In any proceedings of the review board, the person requesting the review and any other person appearing pursuant to leave granted under subregulation (12) may appear in person or be represented by any other person whom he has authorized to represent him.

(14) The review board shall have all the powers of an Inspector of Accidents conferred by these Regulations and in addition may administer an oath to any witness.

(15) Every person summoned by the review board as a witness shall be allowed such expenses as the Director may, with the approval of the Minister for the time being responsible for finance, determine.

(16) The review board may order any person who appears or is represented in terms of subregulation (13) to pay in respect of the costs of the review board such sum as may be specified in the order, or the taxed amount of those costs or such part thereof as may be so specified, and the review board shall, in determining whether or not to make an order as to costs against any person, have regard to whether that person did or did not take advantage of such opportunities as were open to him to make representations in terms of regulation 13.

(17) Any sum payable by virtue of an order made under subregulation (16) shall, if the High Court so orders, be recoverable by execution issued from the High Court or otherwise as if payable under an order of the High Court.

(18) Upon completion of the review to its satisfaction, the review board shall make a report to the Director containing a summary of the proceedings at the hearing and either confirming or rejecting in whole or in part those findings and conclusions of the Inspector of Accidents which were the subject of the review, together with its reasons therefor, and the Director shall serve a copy of the report on all persons who appeared or were represented before the review board.

15. The Director shall, unless in his opinion there are good reasons to the contrary, cause the report of the Inspector of Accidents and, where a review by a review board has been held, the report of the review board to be made public in whole or in part in such manner as he thinks fit:

Publication of report of Inspector of Accidents or review board

Provided that —

- (i) where notice has been served in terms of regulation 13 (1) (a), the report of the Inspector of Accidents shall not be published before the expiry of the time for service of a notice of review under regulation 14 (1); and
- (ii) where a review by a review board is held, the report of the Inspector of Accidents shall not be published before the completion of the review.

16. (1) In the case of an investigation by an Inspector of Accidents which has not been the subject of a review, the Director may cause the investigation to be reopened and, in the case of a review, the Director may direct the review to be reheled, in both cases either generally or as to any part thereof, and the Director shall do so if —

Reopening of investigation or review

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

(2) If the Director directs any review to be reheled, the Chief Justice may direct that the review shall be reheled either by the review board by whom it was held in the first instance or by a new review board appointed by him to rehold the review.

(3) An investigation by an Inspector of Accidents reopened or a review reheled shall be subject to and conducted in accordance with those provisions of these Regulations relating to an investigation by an Inspector of Accidents or a review, as the case may be.

17. (1) Where it appears to the Director expedient in the public interest to hold a public inquiry into the circumstances and causes of or into any particular matter relating to an accident to which these Regulations apply, he shall direct that a public inquiry be held by a person, to be called a Commissioner, appointed by the Chief Justice.

Public inquiries

(2) The Director shall not, unless, in his opinion, exceptional circumstances exist, direct the holding of a public inquiry until such time as he has received the report of the Inspector of Accidents, relating to the accident in question, made to him in accordance with regulation 12 and, where the Director does so direct the holding of a public inquiry before he has received such report, any investigation by an Inspector of Accidents relating to the accident currently in progress shall be discontinued.

(3) A Commissioner shall be a person who is qualified —

- (a) to be appointed as a judge of the High Court; or
- (b) to practice as an attorney in a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament for the purposes of section 96 of the Constitution or in a court having jurisdiction in appeals from such a court and has been so qualified for not less than 10 years.

(4) A Commissioner in every case shall be assisted by not less than 2 assessors possessing aeronautical, engineering or other special skills or knowledge, all of whom shall be appointed by the Chief Justice.

(5) Where the Director has directed a public inquiry to be held, he shall remit the case to the Attorney-General and thereafter the preparation and presentation of the case shall be conducted by the Attorney-General; and such Inspector of Accidents as the Director shall designate shall render such assistance to the Commissioner and to the Attorney-General as is in his power.

(6) Where the Director has directed a public inquiry to be held, the Attorney-General may cause a notice (hereinafter referred to as "the notice of inquiry") to be served on the owner, operator, hirer and commander of any aircraft involved in the accident and on any other person who, in his opinion, ought to be served with the notice.

(7) The notice of inquiry shall contain a statement of the questions which, on the information then in the possession of the Attorney-General, the Attorney-General intends to raise on the hearing of the inquiry and he may, by a subsequent notice, amend, add to or omit any of the questions specified in the notice of inquiry.

(8) The Attorney-General and the owner, operator, hirer and commander of any aircraft involved in the accident and any other person on whom the notice of inquiry has been served shall be deemed to be parties to the proceedings.

(9) Any other person, including the Director, may, by leave of the Commissioner, appear and any person who so appears shall thereupon become a party to the proceedings.

(10) An application for leave to appear may be made to the Commissioner at a preliminary meeting such as is referred to in subregulation (11).

(11) Before the date fixed for holding the inquiry, the Commissioner may hold a preliminary meeting at which any directions may be given or any preliminary or interlocutory order as to the procedure may be made and any person intending to make an application to the Commissioner at such a preliminary meeting shall give notice thereof to the Attorney-General.

(12) For the purposes of the inquiry, the Commissioner shall have all the powers of a magistrate's court and, without prejudice to those powers, the Commissioner may —

- (a) enter and inspect, or authorize some other person to enter and inspect, any place or building entry or inspection of which appears to the Commissioner requisite;
- (b) by summons under his hand, require the attendance before him as witnesses of all such persons as the Commissioner thinks fit to call and examine and require such persons to answer any question, furnish any information or produce any books, papers, documents and other articles whatsoever that he considers relevant and retain any such books, papers, documents and other articles until the completion of the inquiry; and
- (c) administer an oath to any such witness or require any witness to make and sign a declaration of the truth of the statement made by him on his examination.

(13) The assessors appointed to assist the Commissioner shall have the same powers of entry and inspection as are conferred on the Commissioner by subregulation (12) (a).

(14) Affidavits may, by permission of the Commissioner and saving all just exceptions, be used as evidence at the hearing.

(15) At the time and place fixed for holding the inquiry, the Commissioner may proceed therewith whether the parties, on whom the notice of inquiry has been served, or any of them are or are not present.

(16) The hearing of the inquiry shall be in public unless the Commissioner determines, in relation to the whole or part of the inquiry, that it is to be held in private in the interest of justice or in the public interest.

(17) The proceedings on the inquiry shall begin with the production and examination of witnesses on behalf of the Attorney-General; these witnesses, after being so examined, may be cross-examined by the other parties in such order as the Commissioner shall direct and then re-examined on behalf of the Attorney-General.

(18) Questions asked and documents tendered as evidence in the course of examination of the Attorney-General's witnesses shall not be open to objection merely on the ground that they do or may raise questions which are not contained in or vary from the questions specified in the notice of inquiry or in a subsequent notice such as is referred to in subregulation (7).

(19) When the examination of his witnesses is concluded, the Attorney-General shall state the questions in reference to the accident and to the conduct of persons connected with the accident on which the Commissioner's opinion is desired.

(20) In framing the questions for the Commissioner's opinion, the Attorney-General shall make such amendments and additions to and omissions from the questions specified in the notice of inquiry or subsequent notice such as is referred to in subregulation (7) as, having regard to the evidence that has been given, he or the Commissioner thinks fit.

(21) After the questions for the Commissioner's opinion have been stated by the Attorney-General, each other party to the proceedings may address the Commissioner for the purpose of opening the evidence he intends to adduce, produce and examine witnesses on his behalf and recall any of the witnesses who have already been examined for further examination and generally adduce evidence; these witnesses may be cross-examined by the other parties and then re-examined by the party producing them.

(22) The parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the Commissioner shall direct.

(23) Further witnesses may be produced and examined on behalf of the Attorney-General, cross-examined by the other parties in such order as the Commissioner shall direct and then re-examined on behalf of the Attorney-General.

(24) When the whole of the evidence in relation to the questions on which the Commissioner's opinion is desired has been concluded, any of the parties (other than the Attorney-General) who wishes to do so may address the Commissioner on that evidence in such order as the Commissioner shall direct and the Commissioner may then be

addressed in reply upon the whole case on behalf of the Attorney-General.

(25) The Commissioner may adjourn the inquiry from time to time and from place to place and, where an adjournment is requested by any party to the inquiry, the Commissioner may impose such terms as to payment of costs or otherwise as he thinks just as a condition of granting the adjournment.

(26) Every person attending as a witness before the Commissioner shall be allowed such expenses as would be allowed to a witness attending before the High Court and, in the case of a dispute as to the amount to be allowed, the same shall be referred to the Registrar of the High Court who, on request signed by the Commissioner, shall determine and certify the proper amount of the expenses:

Provided that, in the case of any party to the proceedings or of any person in the employment of such a party, any such expenses may be disallowed by the Commissioner.

(27) The Commissioner shall submit a report to the Director stating fully the circumstances of the case and his opinion on the questions on which his opinion is desired and 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.

(28) Each assessor appointed to assist the Commissioner shall, —

- (a) if he assents to the Commissioner's report without reservations, subscribe the report to that effect and sign it;
- (b) if he assents to the Commissioner's report but with reservations, subscribe the report to that effect and sign it and state in writing in a separate document the nature of his reservations and sign that document; or
- (c) if he dissents from the Commissioner's report, decline to sign it and state in writing in a separate document his dissent and the reasons therefor and sign that document.

(29) If an assessor assents to the Commissioner's report with reservations or dissents therefrom, the separate document prepared and signed by him in accordance with subregulation (28) shall be annexed to the Commissioner's report and submitted, together with the report, to the Director.

Publication
of report of
Commis-
sioner

18. The Director shall, unless in his opinion there are good reasons to the contrary, cause the report of the Commissioner, together with the contents of the separate documents, if any, annexed to it in accordance with regulation 17 (29), to be made public in whole or in part in such manner as he thinks fit.

Reopening of
public
inquiry

19. (1) The Director may, in any case where a public inquiry has been held, direct the inquiry to be reheard, either generally or as to any part thereof, and the Director shall do so if —

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

(2) If the Director directs any public inquiry to be reheard, the Chief Justice may direct that the inquiry shall be reheard either by the Commissioner by whom it was held in the first instance or by a new Commissioner appointed by him to reheard the inquiry.

(3) A public inquiry reheld shall be subject to and conducted in accordance with those provisions of these Regulations relating to public inquiries.

20. In an investigation by an Inspector of Accidents or in any public inquiry, in respect of an accident occurring in or over Botswana, an accredited representative of —

- (a) the State of manufacture;
- (b) the State of registry; or
- (c) any country which has, on request, furnished information in connexion with the accident,

may take part in the investigation or inquiry, as the case may be, and shall, for this purpose, be permitted to visit the scene of the accident, examine the wreckage, question witnesses, receive copies of all pertinent documents (saving all just exceptions), have access to all relevant evidence and make submissions; and the accredited representative 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.

21. (1) No Person shall in any way hinder, obstruct or otherwise impede a Commissioner, review board, Inspector of Accidents or assessor or the Director or any person acting under his authority in the exercise of any power conferred or the performance of any duty imposed by these Regulations.

(2) No person shall 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 a Commissioner holding a public inquiry, a review board or an Inspector of Accidents carrying out an investigation in terms of these Regulations.

(3) Any person who contravenes this regulation shall be guilty of an offence and liable to a fine of P500 and to imprisonment for one year.

22. The Air Navigation (Investigation of Accidents) Regulations, 1955, are hereby revoked:

Provided that the revocation shall not affect any investigation or public enquiry commenced under those Regulations and any such investigation or enquiry may be continued as if these Regulations had not been made.

MADE this 14th day of April, 1983.

C.W. BLACKBEARD,
Minister of Works and Communications.

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Supplementary provision in relation to investigations and public inquiries

Obstruction etc.

Revocation H.C.N. 86 of 1955