

Extraordinary



Federal Republic of Nigeria Official Gazette

No. 69

Lagos - 6th May, 2019

Vol. 106

Government Notice No. 28

The following is published as supplement to this *Gazette* :

<i>S.I. No.</i>	<i>Short Title</i>	<i>Page</i>
18	Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2019	B213-248

Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 66/52019/1,200

Annual Subscription from 1st January, 2019 is Local : ₦45,000.00 Overseas : ₦60,500.00 [Surface Mail] ₦75,000.00 [Second Class Air Mail]. Present issue ₦2,000 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

B 212

**CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS
AND INCIDENTS) REGULATIONS 2019**



ARRANGEMENT OF REGULATIONS

Regulations :

RECORD OF AMENDMENT

PART 1—ESTABLISHMENT

1. Enabling Powers.
2. Citation and Commencement.
3. Interpretation.
4. Service of Notices and other Documents.

PART 2—APPLICABILITY

5. Applicability.
6. Functions of the Bureau.

PART 3—GENERAL

- 7.1. Objective.
- 7.2. Independence of the Investigations.
 8. State Safety Programme (SSP) For Accident Prevention.
- 8.1. Incident Reporting Systems and Accident and Incident Database.
 9. Notification of Aircraft Accidents or Serious Incidents.
- 9.1. Responsibility of the Bureau as the State of Occurrence.
10. Notification when a State is unaware of the serious incident of aircraft registered elsewhere.
- 11.1 Responsibility of Nigeria as the State of Registry.
- 11.2 Accidents or serious incidents in the territory of the State of Registry, in a non-contracting state or outside the territory of any State.
12. Response on Notification.
13. Notification to the Bureau and duty to furnish information relating to Accidents or Incidents.
14. Language of Communication.
15. Additional Information.
16. Investigation of Incidents, other than Serious Incidents.
17. Response on Notification.

18. Obligation of Nigeria as State of Registry or State of the Operator.
19. Protection of evidence, custody and removal of damaged aircraft.
20. Request from States of Registry, the Operator, Design or Manufacture.
21. Release of Aircraft from Custody.

PART 4—INVESTIGATION

22. Investigators of Air Accidents.
23. Power to establish a Policy and Procedures Manual.
24. Training for Air Safety Investigators.
25. Powers of Investigators.
26. Flight Recorders.
27. Form and Conduct of Investigations.

PART 5—REPORTS

28. Investigator's Report.
29. Notice of the Bureau's Report and Representations thereon.
30. Publication of Information.
31. Publication of the Reports.
32. Accessibility of the Bureau's Circulars, Guidance Materials.
33. Consultation.
34. Safety Recommendations.
35. Re-opening of Investigation.
36. Accredited Representatives, Rights and Privileges.
37. Obligations of Accredited representatives and Advisers.
38. Appointment of Accredited Representative, Adviser, Observer and Expert.
39. Obstruction of Investigation.
40. Protection of accident and incident investigation records.
41. Judicial Panel/Tribunal of Inquiry.
42. Preliminary Report.
43. Accident Investigation Report Review Committee.
44. Procedures for Amendment of Regulations.
45. Contraventions & Penalties.
46. Repeal and Saving Provision.

SCHEDULE

B 216

S. I. No. 18 of 2019

**CIVIL AVIATION (INVESTIGATION OF AIR ACCIDENTS
AND INCIDENTS) REGULATIONS 2019**

1st Day of May, 2019

Commence-
ment.

PART I—ESTABLISHMENT

1. The Minister, in exercise of the powers conferred by Sections 29 (10) of the Civil Aviation Act, 2006 and of all other powers enabling the Minister in that behalf hereby makes the following Regulations prescribing for :

Enabling
Powers.

(1) the manner of exercising and carrying out the Bureau's powers, duties and functions under the Civil Aviation Act ;

(2) the standards that the aviation system needs to achieve compliance with the provisions of the Act.

2. These Regulations may be cited as the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2019 and shall come into force on the 1st day of May, 2019.

Citation.

3. The following expressions except where the context otherwise requires, shall have the following meaning :

Interpretation.

“*Accident*” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which :

(a) a person is fatally or seriously injured as a result of :

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

Except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew ; or

(b) the aircraft sustains damage or structural failure which :

- adversely affects the structural strength, performance or flight characteristics of the aircraft, and
- would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage

is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windcreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome) ; or

(c) the aircraft is missing or is completely inaccessible. An aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located.

“*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. Where the State has established an accident investigation authority, the designated accredited representative would normally be from that authority ;

“*Act*” means the Civil Aviation Act, 2006 ;

“*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 ;

“*Aerodrome*” means a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft ;

“*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 ;

“*Approved Training Organizations (ATO)*” means an organization approved by the Authority in accordance with the requirements to perform airman training and operating under the supervision of the Authority ;

“*Authority*” means the Nigerian Civil Aviation Authority ;

“*Bureau*” means the Accident Investigation Bureau ;

“*Causes*” include actions, omissions, events, conditions or a combination thereof, which led to the accident or incident. The identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability ;

“*Commissioner*” means the Chief Executive Officer of Accident Investigation Bureau appointed pursuant to the Civil Aviation Act, 2006 ;

“*Competent Authority*” means the Federal High Court or any other authority or commission established or constituted in accordance with the Laws of the Federation ;

“*Contracting State*” includes any state (including Nigeria) which is a party to the Convention on International Civil Aviation ;

“*Contributory Factors*” includes actions, omissions, events, conditions, or a combination thereof, which if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident. The identification of contributory factors does not imply the assignment of fault or the determination of administrative, civil or criminal liability ;

“*Crew*” means every person employed or engaged in an aircraft in flight on the business of the aircraft ;

“*Dangerous Goods*” means articles or substances which are capable of posing a risk to health, safety, property or the environment and which are shown in the list of dangerous goods in ICAO Technical Instructions for Safe Transportation of Dangerous Goods by Air or which are classified according to those instructions ;

“*Draft Final Report*” means a report sent to the relevant State, Authority and other interested parties in the investigation, inviting their significant and substantiated comments on the report ;

“*Fatal Injury*” means an injury resulting in death within thirty (30) days of the date of the accident ;

“*Final Report*” means the Bureau’s conclusive report on the investigation into an aircraft accident or incident which includes the pertinent factual information, analysis, conclusions and when appropriate, associated safety recommendations issued by the Bureau ;

“*Flight Recorder*” means any type of recorder installed in the aircraft for the purpose of complementing accident/incident investigation ;

“*Incident*” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation ;

“*Interim Statement*” includes the communication issued by the Bureau to the public on each anniversary of the accident or incident for informing those having a direct interest in the investigation regarding the progress of an on-going investigation and any safety issues raised during the investigation ;

“*Investigation*” means a process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/or contributory factors and when appropriate, the making of safety recommendations ;

“*Investigation Policy and Procedures Manual (IPPM)*” means the Bureau’s internal working document drawn by the Commissioner to achieve the Bureau’s objectives ;

“*Investigator*” includes the Air Safety Investigator ;

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

“*Maximum Mass*” means maximum certificated take-off mass ;

“*Minister*” means the minister responsible for Nigerian Civil Aviation ;

“*Next of kin*” includes the immediate family or other persons closely connected with the victim of an accident ;

“*Observer*” means a representative of a concerned department who is authorized by the Bureau to attend an investigation as an observer, or the Bureau’s investigator authorized to attend an investigation being conducted by the concerned department ;

“*Occurrence*” includes accidents, serious incidents, incidents or other safety related events ;

“*Operator*” means a person, organization or enterprise engaged in or offering to engage in an aircraft operation ;

“*Pilot-in-Command*” means a pilot designated by the operator, or in the case of general aviation, the owner as being in command and charged with the safe conduct of a flight ;

“*Police Officer*” means any person who is a member of the Nigeria Police Force ;

“*Preliminary Report*” means the communication used for the prompt dissemination of data obtained during the early stages of the investigation ;

“*Regulations*” means Civil Aviation (Investigation of Air Accidents and Incidents) Regulations of Nigeria, made pursuant to the Civil Aviation Act, 2006 ;

“*Relevant Record*” includes any item in the possession, custody or power of the Commissioner which is of a kind referred to above ;

“*Safety Recommendation*” means a proposal of the Accident Investigation authority based on information derived from the investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident. In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies.

“*Serious incident*” means an incident involving circumstances indicating that there was a high probability of an accident, and is associated with the operation of an aircraft which, in case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked; or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down.

The incidents listed are examples of incidents that are likely to be serious incidents. The list is not exhaustive and only serves as guidance to the definition of serious incident :

(a) Near collisions requiring an avoidance manoeuvre to avoid a collision or an unsafe situation or when an avoidance action would have been appropriate.

(b) Collisions not classified as accidents.

(c) Controlled flight into terrain only marginally avoided.

(d) Aborted take-offs on a closed or engaged runway, on a taxiway or unassigned runway.

(e) Take-offs from a closed or engaged runway, from a taxiway or unassigned runway.

(f) Landings or attempted landings on a closed or engaged runway, on a taxiway¹ or unassigned runway.

(g) Gross failures to achieve predicted performance during take-off or initial climb.

(h) Fires and/or smoke in the cockpit, in the passenger compartment, in cargo compartments or engine fires, even though such fires were extinguished by the use of extinguishing agents.

(i) Events requiring the emergency use of oxygen by the flight crew.

(j) Aircraft structural failures or engine disintegrations, including uncontained turbine engine failures, not classified as an accident.

(k) Multiple malfunctions of one or more aircraft systems seriously affecting the operation of the aircraft.

(l) Flight crew incapacitation in flight.

(m) Fuel quantity level or distribution situations requiring the declaration of an emergency by the pilot, such as insufficient fuel, fuel exhaustion, fuel starvation, or inability to use all usable fuel on board.

(n) Runway incursions classified with severity.

(o) Take-off or landing incidents. Incidents such as under-shooting, overrunning or running off the side of runways system failures, weather phenomena, operations outside the approved flight envelope or other occurrences which caused or could have caused difficulties controlling the aircraft.

(p) Failures of more than one system in a redundancy system mandatory for flight guidance and navigation.

(q) The unintentional or, as an emergency measure, the intentional release of a slung load or any other load carried external to the aircraft.

“*Serious Injury*” means an injury which is sustained by a person in an accident and which :

(a) requires hospitalization 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 hemorrhage, nerve, muscle or tendon damage ; or

(d) involves injury to any internal organ ; or

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

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

“*State*” means a contracting State of the International Civil Aviation Organization ;

“*State of Design*” includes the state having jurisdiction over the organization responsible for the type design ;

“*State of Manufacture*” includes the state having jurisdiction over the organization responsible for the final assembly of the aircraft, engine or propeller ;

“*State of Occurrence*” includes the state in the territory of which an accident or incident occurs ;

“*State of the Operator*” includes 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 ;

“*State of Registry*” includes the state on whose register the aircraft is entered ;

“*State Safety Programme (SSP)*” means an integrated set of regulations and activities aimed at improving safety ;

“*Statement*” means the whole or any part of an oral, written or recorded statement relating to an aircraft accident given by the author of the statement to the Bureau ;

“*The Annex*” includes Annex 13 to the Convention on International Civil Aviation, Chicago 1944 ;

“*Witness*” means a person required to attest to matters of facts, for this purpose, all statements taken from persons in the cause of accident investigation processes before the Commissioner or any of his designated officer there of which an affirmation may be required.

4.—(1) Any notice, document, consent, approval or other communications required or authorized by any provision of these Regulations to be served on or given to any person shall be in writing and may be served or given :

Service of
Notices and
other
Documents.

(a) by delivering it to that person ;

(b) by leaving it at his usual or last-known residence or place of business, whether in Nigeria or elsewhere ;

(c) by sending it to that person by registered or recorded delivery mail, at that address; any Notice sent by mail shall be deemed to have been duly served five working days after the date of posting ; or

(d) by sending it to that person at that address by telex, email, airmail, facsimile transmission or other electronic means in a form generating a record copy to the party being served at the relevant address; in which event, the document shall be regarded as served when it is received.

2. In any case, any delivery made in accordance with the provisions of regulation 4.1 (b)-(d) shall be deemed served after 7 (seven) days of the date of dispatch.

PART 2—APPLICABILITY

5. These Regulations shall apply to :

1. any civil aircraft accidents or incidents arising out of or in the course of air navigation and either occurring in or over Nigeria or occurring to Nigerian registered aircraft elsewhere and/or where the interest of Nigeria is involved;

Applicability.

2. any accident or incidents involving state and civil aircraft in a civil aerodrome either occurring in or over Nigeria.

6.—(1) The functions of the Bureau shall include, but not limited to :

Functions of
the Bureau.

(a) determination and classification of occurrences ;

(b) the conduct of investigation into any accident, serious incident or incident arising out of or in the course of air navigation and either occurring in or over Nigeria or occurring elsewhere as applicable to an aircraft registered in Nigeria or operated by Nigerian Operator ;

(c) the gathering, recording and analysis of all relevant information on air safety data, in particular, for accident or incident prevention purposes, in so far as those functions do not affect its independence and entail no responsibility in regulatory, administrative or standard matters ;

(d) if appropriate, the issuance of safety recommendations ;

(e) if possible, the determination of the causes and/or contributory factor(s) ;

(f) the compilation, completion and publication of the Final Report ;

- (g) Periodic review of global accidents, incidents, trends and advice ;
- (h) the conduct of safety studies in accident or incident scenarios, arising from observed trends and other safety related issues.

PART 3—GENERAL

Objectives. **7.**—(1) The sole objective of the investigation of an accident or incident under these Regulations shall be the prevention of accidents and incidents. It shall not be the purpose of such an investigation to apportion blame or liability.

Independence of the Investigations. 2. The Bureau shall have independence in the conduct of the investigation and unrestricted authority over its conduct consistent with the provisions of the *Annex 13* to the Convention on International Civil Aviation.

3. The Bureau is independent from the regulatory aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation.

State Safety Programme (SSP) For Accident Prevention. **8.**—(1) Incident Reporting Systems and Accident and Incident Database :

(a) In pursuance of accident and incident investigations, the Bureau shall cooperate with the Authority to maintain and implement safety programmes to achieve an acceptable level of safety performance in civil aviation.

A database to facilitate the effective analysis and management of information on actual or potential safety deficiencies and to determine any preventive action required in accordance with the relevant regulations shall similarly be maintained ;

(b) The database shall include : serial number, aircraft operator and type of aircraft involved, registration mark and place of occurrence, date of occurrence, fatalities and nature of accident/incident ;

(c) In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources including safety studies. When safety recommendations are addressed to an organization in another State, such recommendations shall also be transmitted to that State’s investigation authority ;

(d) The Bureau shall support the process of mandatory incident reporting system of the Authority to facilitate collection of information on actual or potential safety deficiencies ;

(e) The Bureau shall support a voluntary incident reporting system of the Authority to facilitate the collection of information that may not be captured by a mandatory incident reporting system ;

(f) A voluntary incident reporting system shall be non-punitive and afford protection to the sources of the information ;

(g) The Commissioner shall direct and deploy follow-up measures to monitor the implementation of the safety recommendations issued by the Bureau.

9.—(1) Responsibility of the Bureau as the State of Occurrence.

The Bureau shall forward a notification of an aircraft accident or incident without 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) The International Civil Aviation Organization, when the aircraft involved is of a maximum mass of over 2,250 kg or is a turbojet-powered aeroplane.

2. Upon receipt of notification, the State of the Operator shall without delay and by the most suitable and quickest means available, provide the Bureau with the details of dangerous goods on board the aircraft.

10. When the State of Occurrence is not aware of a serious incident of an aircraft registered in Nigeria or operated by a Nigerian Operator, the Bureau shall forward a notification of the serious incident to the State of Design, the State of Manufacture and State of Occurrence.

Notification of Aircraft Accidents or Serious Incidents.

Notification when a State is unaware of the serious incident of aircraft registered elsewhere.

11.—(1) Accidents or Serious Incidents in the Territory of the State of Registry, in a Non-Contracting State or outside the Territory of any State.

When Nigeria, as the State of Registry, institutes the investigation of an accident or serious incident, the Bureau shall forward a notification in accordance with regulations without delay and by the most suitable and quickest means available to :

- (a) The State of the Operator ;
- (b) The State of Design ;
- (c) The State of Manufacture ; and
- (d) The International Civil Aviation Organization, when the aircraft involved is of a maximum mass of over 2,250 kg or is a turbojet-powered aeroplane ;

2. The notification shall contain as much of the following information as is available but its dispatch shall not be delayed due to lack of complete information :

Responsibility of Nigeria as the State of Registry.

- (a) in the case of an accident, the identifying abbreviation “ACCID” or in the case of a serious incident, the identifying abbreviation “INCID” ;
- (b) the manufacturer, model, nationality and registration marks and serial number of the aircraft ;
- (c) the name of the owner, operator and hirer (if any) of the aircraft ;
- (d) the qualification of the Pilot-in-Command of the aircraft and nationality of the crew and passengers ;
- (e) the date (local or co-ordinated universal time of the accident or serious incident) ;
- (f) the last point of departure and the point of intended landing of the aircraft ;
- (g) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude ;
- (h) the number of :
 - (i) crew on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident ;
 - (ii) passengers on board the aircraft at the time of the accident or serious incident and, in the case of an accident, the number of them killed or seriously injured as a result of the accident ;
 - (iii) other persons killed or seriously injured as a result of the accident ;
- (i) the nature of the accident or serious incident and the extent of the damage to the aircraft as far as is known ;
- (j) an indication to what extent the investigation will be conducted or is proposed to be delegated by the State of Occurrence ;
- (k) the 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) the identification of the originating authority and means to contact the investigator in charge and the accident investigation authority of the State of Occurrence at any time ;
- (m) presence, description and location of dangerous goods on board the aircraft ;

Response on
Notification.

12.—(1) The Bureau shall acknowledge receipt of any notification of an accident or serious incident received from another State.

2. Upon receipt of a notification, the Bureau shall upon request, provide the State conducting the investigation with any relevant information available regarding the flight crew and the aircraft involved in the accident or serious incident.

3. The Bureau shall also inform the State conducting the investigation whether it intends to appoint an accredited representative and if such an accredited representative is appointed, the name and contact details ; as well as the expected date of arrival if the accredited representative will be present at the investigation.

4. Upon receipt of a notification, the Bureau shall with a minimum of delay and by the most suitable and quickest means available, as much as possible provide the State conducting the investigation with details of dangerous goods on board the aircraft.

13.—(1) Where an accident or incident occurs in respect of which, by virtue of regulation 22 (2), the Commissioner is required to carry out, or to cause an officer to carry out an investigation, the relevant person or any other person having knowledge of an accident or incident and in the case of an aerodrome accident or incident occurring on or adjacent to an aerodrome, the operator of the Airport shall immediately give notice thereof to the Bureau by the quickest means of communication available and in the case of an accident occurring in or over Nigeria, shall also notify forthwith a Police Officer of the area of the accident and the location.

Notification to the Bureau and duty to furnish information relating to Accidents or Incidents.

2. In the event of any occurrence, the Operator shall immediately notify the Bureau *via* its accident/incident reporting form available on the website (www.aib.gov.ng).

3. The classification of the occurrence shall be made by the Commissioner/CEO or his designate.

4. In this paragraph, the expression “*relevant person*” means :

(a) in the case of an accident or serious incident occurring in or over Nigeria or occurring elsewhere to an aircraft registered in Nigeria, the Air Traffic Service (ATS) provider, the pilot-in-command of the aircraft involved at the time of the accident or incident or, if he or she is fatally injured or incapacitated, owner or the Operator of the aircraft ;

(b) Other crew members, if physically able at the time the report is submitted shall attach a statement setting forth the facts, conditions and circumstances relating to the accident or incident as they appear to him or her. If any of the crew members is incapacitated, he or she shall submit the statement as soon as he or she is physically able ; and

(c) in the case of a serious incident occurring in or over any country or territory other than a Contracting State to an aircraft registered elsewhere than in Nigeria but operated by a Nigerian Operator, that Operator.

14. Notification by the Bureau or by any person pursuant to Regulations 13 sub-paragraphs (1-3) shall be in plain English language.

Language of Communication.

B 228

Additional Information.

15.—(1) As soon as it is possible to do so, the Bureau shall dispatch the details omitted from notification as well as other known relevant information.

2. Where the facilities or services of any State of which have been, or would normally have been, used by an aircraft prior to an accident or incident and which has information pertinent to the investigation, on request by the State conducting the investigation, the Bureau shall provide such information on the activities which may have directly or indirectly influenced the operation of the aircraft.

3. When an aircraft involved in an accident or a serious incident lands in a State other than the State of Occurrence, the Bureau as the State of Registry or the State of the Operator shall, on request from the State conducting the investigation, furnish the latter State with the flight recorder records and, if necessary, the associated flight recorders.

4. The Bureau shall provide on the request of the State of Occurrence, pertinent information on any organization whose activities may have directly or indirectly influenced the operation of the aircraft.

5. Any Organization whose activities may have directly or indirectly influenced the operation of the aircraft shall provide all pertinent information related to the operation of the aircraft to the Bureau on request.

Investigation of Incidents, other than Serious Incidents.

16.—(1) Where an incident investigable by the Bureau, other than a serious incident, takes place :

(a) in or over Nigeria ; or

(b) otherwise than in or over Nigeria to an aircraft registered in Nigeria; the Owner, Operator, Pilot-In-Command or Hirer of the aircraft, if so required by notice given to such a person by the Commissioner, shall send to the Commissioner such information as is in his or her possession or control with respect to the incident in such form and at such times as may be specified in the notice.

2. The decision as to the extent of investigation shall be as stated in regulations 27.

Response on Notification.

17.—(1) The State of Registry, the State of the Operator, the State of Design and the State of Manufacture shall acknowledge receipt of the notification of an accident or serious incident sent to it by the Bureau.

2. Upon receipt of the notification, the State of Registry, State of the Operator, State of Design and State of Manufacture shall as soon as possible, provide the Bureau with any relevant information available to them regarding the aircraft and flight crew involved in the accident or serious incident. Each State shall also inform the Bureau whether it intends to appoint an accredited representative and if such an accredited representative is appointed, the name

and contact details; as well as the travel date expected of arrival of the accredited representative to Nigeria.

18. When the State conducting the investigation of an accident to an aircraft of a maximum mass of over 2,250kg with Nigeria as the State of Registry or the State of the Operator specifically requests the participation of Nigeria, the Bureau shall appoint an Accredited Representative.

Obligation of Nigeria as State of Registry or State of the Operator.

19.—(1) Where an accident or a serious incident occurs in Nigeria, the Bureau shall take all reasonable measures to protect the 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. Protection of evidence shall include the preservation, by photographic or other means of any evidence which might be removed, effaced, lost or destroyed. Safe custody shall include protection against further damage, access by unauthorized persons, pilfering and deterioration.

Protection of evidence, custody and removal of damaged aircraft.

2.—(a) No person other than the Commissioner, the investigator-in-charge or an authorized person shall have access to the aircraft involved in the accident or serious incident, the contents thereof, or the site of the accident or serious incident ; and

(b) No person shall move or interfere with the aircraft, its contents or the site of the accident or serious incident except under the authority of the commissioner or the investigator-in-charge.

3. Notwithstanding Sub-paragraph 19.1 above :

(a) The aircraft involved in an accident or serious incident may be removed or interfered with to such extent as may be necessary for all or any of the following purposes :

(i) extricating persons or animals ;

(ii) removing any mail, valuables or dangerous goods carried by the aircraft for the purpose of preservation ;

(iii) preventing destruction by fire or other cause ;

(iv) preventing any danger or obstruction to the public, air navigation or other transport ; or

(b) if an aircraft is wrecked in water, the aircraft or any contents thereof may be removed to such extent as may be necessary for bringing the aircraft or its contents to a place of safety.

4. Where the Commissioner or investigator-in-charge has authorized any person to remove any goods or passenger baggage from the aircraft or to release any goods or passenger baggage from the custody of the Commissioner or investigator-in-charge, the person may :

(a) remove the goods or passenger baggage or any other property from the aircraft under the supervision of a Police Officer not below the rank of an Assistant Superintendent of Police (ASP) ;

(b) release the goods or passenger baggage from the custody of the Commissioner or investigator-in-charge, subject to clearance by or with the consent of the Nigeria Custom Service, if the aircraft has come from a place outside Nigeria.

5. Where the Commissioner or investigator-in-charge is of the opinion that the aircraft involved in the accident or serious incident is likely to be in danger or obstruction to the public, air navigation or other transport, he may order the owner, operator or hirer of such aircraft to remove the aircraft to such place as the Commissioner or investigator-in-charge shall indicate.

6. In the absence of the owner, operator or hirer or in the event of non-compliance with the order in sub-paragraph 5, the Commissioner or investigator-in-charge shall be empowered to remove or cause the removal of the aircraft.

7. The expenses incurred in removing such aircraft shall :

(a) be borne by the owner, operator or hirer of the aircraft ; and

(b) where the aircraft is removed by the Commissioner or investigator-in-charge under sub-paragraph 6, be borne by the owner, operator or hirer or all of them.

8. In this paragraph, “*authorized person*” means :

(a) any person authorized by the Commissioner or investigator-in-charge either generally or specifically to have access to any aircraft involved in an accident or a serious incident and includes any appropriate authority ; and

(b) in relation to an accident involving a military aircraft belonging to the Nigerian Armed Forces includes any person authorized by the Chief of the appropriate military service.

Request from States of Registry, the Operator, Design or Manufacture.

20. If a request is received from the State of Registry, the State of the Operator, State of Design or State of Manufacture that the aircraft, its contents, and any other evidence remain undisturbed pending investigation by an accredited representative of the requesting State, the Bureau 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, and shall observe the provisions of regulations 19(2) and (3) above.

Release of Aircraft from Custody.

21.—(1) The Bureau shall release custody of the aircraft, its contents or any part(s) thereof as soon as they are no longer required in the investigation, to any authorized person or persons duly designated by the State of Registry or the State of the Operator, as may be applicable, and shall observe the provisions of Regulations 19 paragraph 3(a)(iv). For this purpose, the Bureau

shall facilitate access to the aircraft, its contents; or any part thereof lying in an area within which it finds it impracticable to grant such access, otherwise, it shall itself effect removal to a point where access can be given.

2. In this paragraph, the expression “authorized person” means :

(a) Any person authorized by the Commissioner either generally or specially to have access to any aircraft involved in an accident or serious incident ;

(b) A Police Officer, not below the rank of Assistant Superintendent of Police (ASP) ;

(c) An officer of Customs and Excise, not below the rank of Assistant Comptroller ;

(d) The Operator, Owner or Hirer of the aircraft.

PART 4—INVESTIGATION

22.—(1) For the purpose of carrying out investigations into accident and incidents to which these Regulations apply, the Commissioner shall, subject to paragraph (2) below, appoint persons as Air Safety Investigators of Accidents, one of whom shall be appointed by the Commissioner as Investigator-in-Charge (IIC).

Investigators
of Air
Accidents.

2. Subject to paragraphs (5) and (6) below, the Commissioner shall carry out, or cause an Investigator to carry out, an investigation into :

(a) accidents or serious incidents which occur in or over Nigeria ;

(b) accidents and serious incidents which occur in or over any country or territory which is not an ICAO contracting State to aircraft registered in Nigeria when such an investigation is not carried out by another State ;

(c) accidents and serious incidents which occur in or over any country or territory which is not an ICAO contracting State to aircraft which are registered elsewhere than in Nigeria but which are operated by an Operator established in Nigeria when such an investigation is not carried out by another State ;

(d) accidents and serious incidents which occur in or over any country or territory which is not an ICAO contracting State to aircraft which are registered elsewhere than in Nigeria, which does not intend to conduct an investigation in accordance with *Annex 13*, the State of Registry or, failing that, the Bureau as the State of the Operator, may institute an investigation in co-operation with such a State of Occurrence but failing such co-operation the Bureau shall itself conduct the investigation with such information as is available ; and

(e) accidents and serious incidents to aircraft registered in Nigeria when the location of the accident or serious incident cannot definitely be established as being in the territory of any State ; and

(f) where an accident or serious incident occurs in international waters nearest to Nigeria, the Bureau shall provide such assistance as it is able and shall, likewise, respond to requests by the State of Registry.

3. Subject to paragraphs (5) and (6) below, the Commissioner may, when he expects to draw air safety lessons from it, carry out, or cause an Investigator to carry out, an investigation into an incident, other than a serious incident, which occurs :

(a) in or over Nigeria ; or

(b) outside Nigeria involving a Nigerian registered aircraft or an aircraft operated by a Nigerian operator.

4. The Commissioner may delegate the whole or part of an investigation into an accident or a serious incident to another contracting State or a regional accident investigation agency by mutual arrangement and consent where the aircraft is of a maximum mass of over 2,250kg.

5. Where the Commissioner delegates the whole or part of an investigation pursuant to paragraph (4) above, he shall so far as possible, facilitate inquiries by the investigator appointed by the relevant State or Regional Accident and Incident Investigation Organization.

6. The Commissioner may carry out, or cause an Investigator to carry out, an investigation into an accident or incident where the investigation has been delegated to Nigeria by another State or Regional Accident and Incident Investigation Organization.

7. Without prejudice to the power of an Investigator to seek advice or assistance as he may deem necessary in making an investigation, the Commissioner may appoint persons to assist an Investigator in a particular investigation and such persons shall for the purpose of so doing have such of the powers of an Investigator under these Regulations or as may be specified in their appointment.

8. The Commissioner may arrange for any of his powers and obligations under these Regulations to be performed on his behalf by any officer of the Bureau designated by him.

Power to establish a Policy and Procedures Manual.

23. The Commissioner in the exercise of his powers may develop and approve a Policy and Procedures Manual (PPM) to implement the provisions and future amendments of ICAO *Annex 13*, any relevant provisions of ICAO SARPs, as well as technical standards detailing the Bureau's accident investigation duties, including organization and planning, investigation and reporting.

24.—(1) Various levels and categories of training for competence and task performance requirements shall be provided, including advances in technologies for flight operations, engineering and other relevant aviation fields.

Training for
Air Safety
Investigators.

2. Airline Operator that acquires new aircraft type coming into Nigerian register shall conduct familiarisation training for, at least one (1) Air Safety Investigator.

3. The Air Safety Investigator in pursuance of Paragraph 2 above shall be required to undertake and attend certification courses on such new equipment to acquire system knowledge of aircraft for accident prevention purposes.

25.—(1) For the purpose of enabling the investigator to carry out an investigation into any accident or incident in the most efficient and effective manner within the shortest time, an investigator-in-charge shall have unrestricted control, where appropriate in co-operation with all competent authorities involved in the investigation, to :

Powers of
Investigators.

(a) have free access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage ;

(b) ensure an immediate listing, photographing or copying of evidence thereof and controlled removal of debris, or components for examination or analysis purposes or preparing a study for the purpose of prevention of accidents ;

(c) have immediate unrestricted access to and control over all relevant evidential materials, including the detailed examination and use of the flight recorders, Air Traffic Services and any other recordings without delay and shall not be impeded by authorized personnel participating in the investigation or administrative or judicial investigations or proceedings ;

(d) ensure the detailed examination and effective use of the contents of the flight recorders, Air Traffic Services and any other recordings in the investigation of an accident or an incident and shall arrange for the read-out of the flight recorders without delay ;

(e)(i) arrange expeditious conduct of investigation into a fatal accident and complete autopsy examination of fatally injured flight crew and subject to particular circumstances, of fatally injured passengers, and cabin attendants preferably by a pathologist experienced in accident investigation ;

(ii) arrange for medical examination of the crew member(s), passengers and the aviation personnel involved in the accident preferably by a physician experienced in accident investigation where the investigator believes on reasonable grounds that the information derived from the examination is, or may be relevant to the conduct of the investigation.

The notice of request shall be made in writing and signed by the IIC or his designate ;

(f)(i) the investigator shall in pursuance of the above regulations have access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims ;

(ii) shall have immediate access to the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people ;

(iii) No person having been involved in the operation of the aircraft shall refuse or fail to produce information to an investigator, or to appear before an investigator and give statement, to provide information or to submit to a medical examination.

(g) examine and take statements from witnesses ;

(h) have free access to, or request from any State any relevant information or records held by the owner, the operator or the manufacturer of the aircraft and by the authorities responsible for civil aviation or airport operation ;

(i) enter into agreements to provide for the co-ordination of the activities between the Bureau and the relevant authorities noted in regulations 25 (1) above ; and

For the purpose of this paragraph, relevant authorities shall mean all entities that are directly or indirectly involved in operation of aircraft or aircraft accident investigation.

2. For the purpose of paragraph (1) above, the investigator shall have the following unrestricted power :

(a) to invite and take such positive steps to call before him, to examine from all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce books, papers, documents and articles which the Investigator may consider relevant and to retain any such books, papers, documents and articles until the completion of the investigation ;

(b) to take statements from all such persons as the Investigator may think fit and to require any such person to make and sign a declaration of the truth of the statement made by such Declarant ;

(c) on production, if required of his credentials, to enter and inspect any place, building or aircraft, where it appears to the Investigator to be necessary for the purposes of the investigation ;

(d) on production, if required of his or her credentials, to remove, test, take measures for the preservation of or otherwise deal with any aircraft other than an aircraft involved in the accident or incident where it appears to the Investigator that it is required for the purposes of the investigation ;

(e) to take such measures for the preservation of any evidence as the investigator considers appropriate ;

(f)(i) where the circumstances so require, particularly in cases where a witness becomes hostile or stubborn, the Investigator shall cause a summons to be issued under the hand of a competent Legal Officer to secure the attendance of such a witness(s) ;

(ii) It shall be an offence, where relevant parties pertinent to an occurrence refuse access to investigation or fail to provide the necessary information when required or impede investigation ;

(iii) when it is determined that any person or party has supplied false information, the information shall be disregarded and use may be made of the facts available.

3. Any expert or witness invited by an Investigator under paragraph (2) (a) above shall be entitled to reimbursement on such reasonable expense(s) as the Commissioner may determine.

4. When requested to do so by the investigating body or entity of another contracting State, the Commissioner may provide assistance to that body or entity by supplying :

(a) installations, facilities and equipment for :

(i) the technical investigation of wreckage and aircraft equipment and other objects relevant to the investigation ;

(ii) the evaluation of information from flight recorders, Air Traffic Services recorder and the computer storage and evaluation of air accident data ; and

(b) accident investigation experts to undertake specific tasks but only when an investigation is opened following a major accident.

26.—(1) The Bureau shall pursuant to regulations 25 sub-paragraph 1 (c) above make effective use of flight recorders in the investigation of an accident or serious incident and shall arrange for the read-out of the flight recorders without delay ;

Flight
Recorders.

2. Where the Bureau does not have adequate facilities to read out the flight recorders, it shall use the facilities made available to it by other States, considering the following :

(a) the capabilities of the read-out facility ;

(b) the timeliness of the read-out ; and

(c) the location of the read-out facility.

B 236

Form and
Conduct of
Investigations.

27.—(1) The extent of investigations and the procedure to be followed in carrying out investigations required or authorized under these Regulations, shall be determined by the Commissioner taking into account, the purpose and objective of the investigation as stated in regulation 7 of these Regulations and the lessons the Commissioner expects to draw from the accident or incident for the improvement of safety.

2. A State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens shall be entitled to appoint an expert who shall be entitled to :

(a) visit the scene of the accident ;

(b) have access to the relevant factual information which is approved for public release by the State conducting the investigation, and information on the progress of the investigation ; and

(c) receive a copy of the Final Report.

3. If the State of Registry is a non-Contracting State and does not intend to conduct investigation in accordance with *Annex 13*, Nigeria as the State of the Operator, State of Design or State of Manufacture shall institute and conduct the investigation. Such States may delegate the whole or any part of the investigation to another State by mutual arrangement and consent.

PART 5—REPORTS

Investigator's
Report.

28.—(1) On completion of an investigation into an accident or incident, the Investigator-In- Charge shall and without delay prepare a report of the investigation in a form appropriate to the type and seriousness of the accident or incident.

2. If it appears to the Investigator-in-Charge that the investigation of any accident or incident :

(a) involving a collision between a civil aircraft and a State aircraft at a civil aerodrome ; or

(b) occurring while a civil aircraft was on, or in the course of taking off from or landing on an aerodrome controlled by any Approved Training Organization(s) (ATO) ; or

(c) a military aerodrome, where the collision involve a civil aircraft ;

(d) except for the investigation of matters affecting the discipline or internal administration of any of those forces which are more appropriate for the investigation by some other person or body, the investigation may be treated for the purposes of paragraph (1) above as if it had been completed without such matters being investigated under these Regulations. In such a case the report of the investigation into the accident or incident shall state those matters to which the investigation has not extended by reason of this paragraph.

3. The report of an investigation into an accident or incident shall :

(a) state the sole objective of the investigation as described in regulation 7 above ;

(b) where appropriate, contain relevant safety recommendations ;

(c) protect the anonymity of the persons involved in the accident or incident ; and

(d) be circulated by the Commissioner to the parties likely to benefit from its findings with regards to safety.

4. An investigator shall not be compelled to appear to give evidence on issues that apportion blame or liability or to disclose technical information that could affect the outcome of its investigation.

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

6. The Commissioner shall forward a copy of the report prepared pursuant to paragraph (1) above through the Minister for onward transmission without delay to the President.

29.—(1) No report, which is required by these Regulations to be published, shall be so published if, in the Commissioner's opinion, it is likely to affect adversely the reputation of any person, until the Commissioner has :

Notice of the
Bureau's
Report and
Representations
thereon.

(a) Where it appears to him to be practicable to do so, served a notice under these Regulations upon that person, or if that person is a deceased individual, upon the person who appears to the Commissioner, at the time he proposes to serve notice pursuant to this paragraph, to represent best the interest of the deceased in the matter ; and

(b) made such changes to the report as he thinks fit following due consideration of any representations which may be made to him in accordance with regulation 29(3) below by or on behalf of the person served with such notice.

2. The notice referred to in regulation 29 (1) (a) above, shall include particulars of any proposed analysis of facts and conclusions as to the cause or causes of the accident or incident which may affect the persons on whom or in respect of whom the notice is served.

3. Any representations made pursuant to regulation 29 (1) (b) above, shall be in writing and shall, subject to paragraph (6) below, be served on the Commissioner within 60 days of service of the notice referred to in regulation 29 (1) (a) above.

4. A copy of the report submitted to the President through the Minister under regulation 28 (6) above shall be served by the Commissioner on any person who has been served with a notice pursuant to regulation 29 (1) above.

5. It shall be unlawful for anyone or Organization to disclose, or permit to be disclosed, use, circulate, alter, publish or give access to a draft report or any part thereof, or any document obtained during an investigation of an accident or incident or tender in any proceedings whatsoever any privileged information contained in any notice or report served on him pursuant to regulation 29 (1) or (4) above or release to any other person without the prior consent in writing of the Commissioner duly obtained, unless the report has already been published.

6. The Commissioner shall have power to extend the period of 60 days prescribed in regulation 29(3) above and this power shall be exercisable notwithstanding that the period has expired.

Publication
of
Information.

30.—(1) Subject to the provisions of regulations 28 (3) (c) above and 38 below, the Commissioner may at any time publish, or cause to be published, information relating to an accident or incident whether or not such accident or incident is the subject of an investigation by the Bureau.

2. The Bureau should release within 12 months from the date of occurrence of the accident or incident, established factual information and indicate the progress of the investigation in a timely manner.

Publication
of the
Reports.

31.—(1) Subject to regulation 28(1) above, the Commissioner shall cause the report of an investigation into an accident or incident, to be made public in the shortest time possible and in such manner as he considers fit.

2. The Commissioner in pursuance of regulations 28 (1) and 31 (1) above, shall cause the Final Report to be made publicly available as soon as possible without delay and if possible within 12 months on its investigation; Provided the Final Report shall have been made available to :

(a) the relevant authorities ;

(b) States having a direct interest in the accident or incident investigation or to ICAO where the accident or incident involves an aircraft of a maximum mass of over 5,700kg ;

(c) the State of Registry, State of Operator, State of Design, and State of Manufacture ;

(d) States having suffered fatalities or serious injuries to its citizens ;

(e) and other Organizations or persons who in the opinion of the Bureau have a direct interest in the investigation ;

(f) any State that provided relevant information, significant facilities or experts.

3. A Report posted on the internet of the Bureau's website shall be deemed to be publicly available as the Final Report and hard-copy of the publication may not necessarily be required.

4. If the report cannot be made publicly available within 12 months, the Bureau shall make an Interim Statement publicly available on each anniversary of the occurrence, detailing the progress of the investigation and any safety issues raised.

32. The Bureau shall make available its establishing Act, Regulations, Investigation Policy and Procedures Manual, Directives, Orders and other Guidance Materials to the public by means of uploading such on its website.

Accessibility of the Bureau's Circulars and Guidance Materials.

33.—(1) The Bureau shall send a copy of the draft Final Report to the following States, inviting their significant and substantiated comments on the Report within 60 days of the date of transmittal:

Consultation.

(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; and

(f) any State that participated in the investigation as per the States of Occurrence.

2. The Bureau shall send a copy of the draft Final Report to the Operator and appropriate aviation authorities, within Nigeria, inviting their significant and substantiated comments on the Report within 60 days of the date of transmittal.

3. If the Bureau receives comments within 60 days of the date of transmittal letter, it shall either amend the draft Final Report to include the substance of the comments received as deemed appropriate or, if desired by the State that provided the comments, append the comments to the Final Report.

4. The Bureau in pursuance of paragraph (1) above shall send a copy of the draft Final Report on the investigation through the State of the Operator to the Operator and through the State of Design and State of Manufacture, to the Organizations responsible for the type design and the final assembly of the aircraft to enable them submit comments on the report.

5. If the Bureau receives no comments within 60 days of the date of the first transmittal letter, it shall issue the Final Report without delay, and forward same to the President through the Minister and publish unless an extension of that period has been agreed with the State or States concerned.

6. If the Bureau receives no comments within the agreed extension period, it shall issue the Final Report without delay, and forward same to the President through the Minister, and publish.

B 240

Safety
Recommendations.

34.—(1) At any stage of an investigation carried out under these Regulations, the Commissioner shall, in a dated transmittal letter, where appropriate :

(a) make safety recommendations of global concern to the appropriate aviation authorities, including those in other States, of any preventive action(s) that the Investigator- In - Charge considers necessary to be taken promptly to enhance aviation safety ; and

(b) address, as soon as possible, any safety recommendation arising out of the investigation to the accident investigation authorities of the States concerned and to ICAO when ICAO documents are involved.

2. An undertaking or authority to whom a safety recommendation has been addressed shall, without delay :

(a) take that recommendation into consideration and, where appropriate, act upon it ;

(b) send to the Commissioner within 90 days from the date of transmittal :

(i) full details of the measures, if any, it has taken or proposes to take to implement the recommendation and, in a case where it proposes to implement measures, the timetable for securing that implementation ; or

(ii) a full explanation as to why no measures will be taken to implement the recommendation ; and

(c) give notice to the Commissioner if at any time any information provided to the Commissioner in pursuance of paragraph 2(b)(i) above concerning the measures it proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

3. Where any recommendation for preventive action or safety recommendation is forwarded to the Commissioner by another State, the Commissioner shall convey to that State within 90 days of the notification of the preventive action(s) taken or under consideration, or the reason why no action will be taken.

4. In the case where the Bureau is conducting the investigation or issuing a Safety Recommendation, it may consider implementing procedures to record the responses to the Safety Recommendation issued.

5. Where the Bureau receives a Safety Recommendation, it may implement procedures to monitor the progress of the action taken in response to that Safety Recommendation.

Re-opening
of
Investigation.

35.—(1) The Commissioner shall cause the investigation of any accident or incident to be reopened, either generally or as to any part of the investigation, and shall do so :

(a) where new and significant evidence becomes available after the investigation has been closed ;

(b) if for any other reason there is, in his opinion, ground for suspecting that the reputation of any person has been unfairly and adversely affected ;

2. Where Nigeria is the State of Registry or State of the Operator and the State that conducted the investigation did not institute the re-opening of the investigation, the Commissioner shall first obtain the consent of that State which instituted the investigation.

3. Any investigation reopened shall be subject to and conducted in accordance with the provisions of these Regulations.

36.—(1) Where an investigation of an accident or serious incident is being carried out by an Investigator-in-Charge pursuant to regulation 22 above, the following States shall be entitled to appoint an accredited representative :

Accredited
Representatives,
Rights and
Privileges.

(a) the State of Registry ;

(b) the State of Design ;

(c) the State of Manufacture ;

(d) the State of the Operator ;

(e) a Contracting State which has, on request, furnished information, facilities or experts to the Commissioner in connection with the accident or incident may take part in the investigation ;

2. The accredited representative shall be permitted to visit the scene of the accident, examine the wreckage, obtain witness information, receive copies of all pertinent documents (saving all such just exceptions as may be determined by the Commissioner), have access to all relevant evidence as soon as possible, make submissions, participate in readouts of recorded media, participate in any off-scene investigative activities.

3. An accredited representative appointed under these Regulations may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the State by which he is appointed. The degree of participation of such advisers in the investigation shall be decided by the investigator-in- charge in consultation with the accredited representative.

4. Notwithstanding the provision of regulations 35 (1) above, the Commissioner shall, upon receipt of a request from a State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens, permit the State to appoint an expert who shall have the following entitlements :

(a) Visit the scene of the accident ;

(b) Have access to the relevant factual information, which is approved for public release by the State conducting the investigation and information on the progress of the investigation ;

(c) Assist in the identification of victims ;

(d) May meet with surviving passengers who are citizens of the expert's States ; and

(e) Receive a copy of the final report.

Obligations of Accredited representatives and Advisers.

37.—(1) Accredited representatives and their advisers shall provide the Bureau with all relevant information available to them and shall not divulge information on the progress and the findings of the investigation without the express consent of the Bureau on whose behalf the investigation is conducted;

2. The advisers assisting accredited representatives shall be permitted under the accredited representatives' supervision, to participate in the investigation to the extent necessary to enable the accredited representatives to make their participation effective.

Appointment of Accredited Representative, Adviser, Observer and Expert.

38.—(1) The Commissioner may appoint a Nigerian accredited representative to participate in the investigation into an accident or incident which occurs in another State and one or more advisers to assist the accredited representative where :

(a) it is the State of Registry, State of the Operator, State of Manufacture or State of Design of the aircraft involved in the accident or incident ; or

(b) it has, at the request of the State conducting the investigation, provided information, facilities or experts to that State in connection with the investigation.

2. The Commissioner may appoint an expert to participate in the investigation into an accident or incident which occurs in another State where the Bureau has a special interest in the accident or incident by virtue of fatalities or injuries to citizens of Nigeria.

3. A representative of a State or an air accident investigation body from a State other than the States specified in regulation 36(1) may, upon a request made and with written permission of the Commissioner in consultation with the investigator-in-charge, participate in an investigation as an observer.

Obstruction of Investigation.

39.—(1) No person shall obstruct or impede an investigator or any person acting under the authority of the Commissioner in the exercise of any powers or duties under these Regulations.

2. No person shall, without reasonable cause, fail to comply with any summons of an investigator conducting an investigation.

3. The onus of proving reasonable cause for failing to comply with the summons shall lie on the person relying on such cause.

4. No person shall refuse to make available the body of the deceased person or other human remains involved in an accident for the performance of an autopsy or medical examination required in this regulation.

5. Investigators appointed under regulations 22 above, may apply for a court order from the competent authority to compel compliance with orders or directives issued under this regulation when necessary.

6. The Bureau shall collaborate with the Nigeria Police Force and relevant State Security Services for the purpose of facilitating an expeditious investigation.

7. Notwithstanding the provisions of paragraph 5 above, if in the course of an investigation it becomes known, or any act of unlawful interference is discovered or suspected, the Investigator-in-Charge shall immediately initiate an action to ensure that the aviation security and other relevant authorities are informed.

40.—(1) The Bureau shall not disclose to the public or make the following records available for purposes other than accident and incident investigations unless the competent authority designated for this purpose determines that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations :

Protection of
accident and
incident
investigation
records.

(a) cockpit voice recordings and airborne image recordings and any transcripts from such recordings ;

(b) records in the custody or control of the Bureau being :

(i) all statements taken from persons by the Bureau in the course of investigation ;

(ii) all communications between persons having been involved in the operation of the aircraft ;

(iii) medical or private information regarding persons involved in the accident or incident ;

(iv) recordings and transcripts, of recordings from air traffic control units ;

(v) analysis of and opinions about information, including flight recorder information, made by the Bureau and accredited representatives in relation to the accident and incident ; and

(vi) The draft Final Report of an accident or incident investigation.

(c) Audio content of cockpit voice recordings as well as image and audio content of airborne image recordings and any transcript, from such recordings shall not be disclosed ;

(d) Request for records in the custody or control of the Bureau shall be directed to the original source of the information, where available ; and

(f) Draft Final Reports being issued or received shall not be disclosed to the public.

2. The records listed in paragraph 1 above shall be included in the Final Report or its appendices only when pertinent to the analysis of the accident or incident. Parts of the records not relevant to the analysis shall not be disclosed to the public.

3. The records listed in paragraphs 1 (a-c) of this regulation shall include information relating to an accident or incident. The disclosure or use of such information for purposes where disclosure or use is not necessary in the interest of safety may mean that, in the future, the information will no longer be openly disclosed to investigators. Lack of access to such information would impede the investigation process and seriously affect aviation safety.

Judicial
Panel/
Tribunal of
Inquiry.

41.—(1) The Bureau while conducting an investigation shall recognize the need for coordination between the investigator-in-charge and the judicial authorities. Particular attention shall be given to evidence which requires prompt recording and analysis for the investigation to be successful, such as the examination and identification of victims and read-outs of flight recorders recordings.

2. Any investigation conducted in accordance with the provisions of these Regulations shall conform to *Annex 13* and particularly regulation 7 above and shall be separate from any judicial or administrative proceeding to apportion blame or liability.

Preliminary
Report.

42.—(1) When the aircraft involved in an accident is of a maximum mass of over 2,250 kg, the Bureau shall send the Preliminary Report to :

- (a) the State of Registry or the State of Occurrence as appropriate ;
- (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 ; and the ICAO.

2. When an aircraft, not covered by paragraph (1) above, is involved in an accident that is 2,250kg or less, and airworthiness or matters considered to be of interest to other States are involved, the Bureau shall forward the Preliminary Report to :

- (a) the State of Registry or the State of Occurrence, as appropriate ;
- (b) the State of Operator, State of Design, State of Manufacture ; and
- (c) any State that provided relevant information, significant facilities or experts.

3. The Preliminary Report shall be submitted in English language to the appropriate State and the ICAO by facsimile, email, or airmail within 60 days of the date of the accident unless the accident/incident Data Report has been sent by that time.

4. When matters directly affecting safety are involved, it shall be sent as soon as the information is available and by the most suitable and quickest means available.

5. When the aircraft involved is of a maximum mass of over 2 250 kg, the Bureau shall send, as soon as practicable, in these formats: the Accident Data Report (ADREP) or European Co-ordination Centre for Aviation Incident Reporting Systems (ECCAIRS) to the ICAO.

6. The Bureau may, upon request provide other States pertinent information additional to that made available in the Accident/ Incident Data Report.

7. When the Bureau is conducting an investigation into an incident to an aircraft of a maximum mass of over 5 700 kg, the Bureau shall send, as soon as practicable, in these format: the Accident Data Report (ADREP) or European Coordination Centre for Aviation Incident Reporting Systems (ECCAIRS) to the ICAO.

43.—(1)(a) Any person dissatisfied with the contents of an aircraft accident investigation report, may by petition in writing, appeal to the Minister for a review ;

Accident
Investigation
Report
Review
Committee.

(b) The Petitioner shall obtain the support and signatures of at least five other persons ; and

(c) The petitioner's request shall conform to the objectives of the Bureau as stipulated in regulations 7.

2. The Minister, if satisfied that a prima facie case has been established, may refer the Petition to an Accident Investigation Report Review Committee (hereafter referred to as "*the Committee*"), to be constituted by the Minister.

3. The Committee shall be made up of a chairman and four members, who shall be persons of integrity and having specialized knowledge in aircraft accident investigation and related profession.

4. The Committee shall review the accident investigation report and may adopt procedures which it deems fit, to resolve the issues raised by the petition.

5. The Minister shall publish the report of the Committee within 30 days upon submission of same.

44.—(1) These Regulations shall be amended from time to time to conform to the Civil Aviation Act, the provisions of ICAO *Annex 13* and any amendment thereto.

Procedures
for
Amendment
of
Regulations.

2. There shall be established for the Bureau a Regulations Committee. The Committee shall be a committee be made up of not more than five (5) members of staff of the Bureau appointed by the Commissioner and a representative of the Minister who shall serve as an Observer.

3. The Committee shall be responsible for :

(a) Monitoring amendments to the Standards and Recommended Practices contained in the *Annexes* to the Convention on International Civil Aviation ;

(b) Incorporating the amendments into these Regulations ;

(c) Considering proposals for amendment to these Regulations made by stakeholders and other members of the public by way of meetings prior to adoption and incorporation ;

(d) Proposing on its motion, amendments to the Regulations ;

(e) Ensuring compliance with the ICAO SARPs and if not possible, notification of differences to ICAO.

4. (a) The Committee shall send Notices of Proposed Amendments (NPA) to operators and other stakeholders and request their comments thereto within a period of 30 days.

(b) Upon receipt of comments, the Committee may consider and incorporate same into the Regulations ;

(c) The Committee shall keep a record of such comments and its deliberations thereon.

5. Submission of Proposal :

(a) Any interested person may submit to the Regulations Committee, a proposal on the introduction, amendment or withdrawal of a Regulation or technical standard ;

(b) The proposal shall be in writing and shall ;

(i) state the name and address of the proposer ;

(ii) state the contents of the Regulation, technical standard or amendment proposed or specify the Regulation or technical standard which the proposer wishes to be withdrawn ;

(iii) explain the interests of the proposer ; and

(iv) contain any information, views or arguments supporting the proposal.

Contraventions
and
Penalties.

45. Any person who contravenes regulations 13 (1) or 19 (1) or 25 paragraphs (1) (2), (c-f), i, 2 (a), (f, ii), or 29 (5) or 39 (1-4) or 40 (4) shall be guilty of an offence and liable on conviction to a fine not exceeding ₦200,000.00 or to imprisonment for a term not exceeding 12 months or to both.

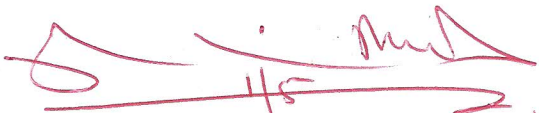
Repeal and
Saving
Provision.

46. This Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2019 hereby repeals the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations, 2016. Any investigation commenced under those Regulations where, in the case of a field investigation has not been completed or, in the case of a formal investigation has not been the subject of a report submitted to the Minister, shall continue as if it had been commenced under these Regulations.

SCHEDULE

- ICAO Annex 13 — Aircraft Accident and Incident Investigation.
ICAO Document 9756 — Manual for Accident and Incident Investigation, Parts 1 to 4.
ICAO Document 9859 (2013) — ICAO Safety Management Manual, (as amended).
ICAO Circular 298 — Training Guidelines for Aircraft Accident Investigators.
ICAO Document 9962 (2011) — Manual on Accident and Incident Investigation Policies and Procedures.
ICAO Document 8984 (2012) — Manual of Civil Aviation Medicine (Third Edition).
ICAO Document 9973 (2013) — Manual on Assistance to Aircraft Accident Victims and their Families.
ICAO Document 9998 (2013) — ICAO Policy on Assistance to Aircraft Accident Victims and their Families.
Model Aircraft Accident and Incident Investigation (AIG) Act (as amended).
Model Aircraft Accident and Incident Investigation (AIG) Regulations (as amended).

DATED the 1st day of May, 2019.


SEN. HADI SIRIKA
Honourable Minister of State-Aviation

01/5/19