

Tanzania

Civil Aviation Act

## Civil Aviation (Investigation of Accidents) Regulations, 1983

Government Notice 171 of 1983

Legislation as at 31 July 2002

Note: This Government Notice was **repealed** on 2004-11-14 by [Civil Aviation \(Aircraft Accidents and Incidents Investigation\) Regulations, 2008](#) (Government Notice 326 of 2008).

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PDF created on 24 February 2025 at 14:53.

*Collection last checked for updates: 31 July 2002.*

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FRBR URI: /akn/tz/act/gn/1983/171/eng@2002-07-31

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# Tanzania

## Civil Aviation Act

# Civil Aviation (Investigation of Accidents) Regulations, 1983

## Government Notice 171 of 1983

Published in Tanzania Government Gazette

### Commenced

*[This is the version of this document at 31 July 2002.]*

*[Note: This legislation was revised and consolidated as at 31 July 2002 and 30 November 2019 by the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. All subsequent amendments have been researched and applied by Laws.Africa for TANZLII.]*

*[Repealed by [Civil Aviation \(Aircraft Accidents and Incidents Investigation\) Regulations, 2008 \(Government Notice 326 of 2008\)](#) on 14 November 2004]*

### 1. Citation

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

### 2. Interpretation and application

(1) In these Regulations, except where the context otherwise requires—

"**accident**" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

- (a) a person 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, except when the injuries are from natural causes, are self-inflicted or inflicted by another person or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
- (b) the aircraft incurs damage or structural failure which adversely effects the structural strength, performance or flight characteristics of the aircraft and which would normally require major repair or replacement of the affected component; or
- (c) the aircraft is missing or is completely inaccessible;

"**Accredited Representative**" means a person designated by a State on the basis of his qualification, for the purpose of participating in an investigation conducted by another State;

"**Chief Inspector**" means the Chief Inspector of Accidents;

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

"**Inspector**" means an Inspector of Accidents;

"**operator**" means any person, organisation or enterprise engaged in or offering to engage in aircraft operation;

"**owner**" means where an aircraft is registered, the registered owner and where the aircraft is not registered, the legal owner; and

"**substantial damage**" includes any damage which necessitates the replacement or extensive repair of any major component.

- (2) These Regulations shall apply to accidents arising out of or in the course of air navigation which occur to any civil aircraft in or over Tanzania or elsewhere to aircraft registered in Tanzania.

### 3. Notification of accidents

- (1) An accident shall be notified in accordance with the provisions of regulation 4 between the time when any person boards an aircraft with the intention of flight and such time as all persons have disembarked therefrom—
- (a) any person suffers death or serious injury while on or upon the aircraft or by direct contact with the aircraft or anything attached thereto; or
  - (b) the aircraft receives substantial damage.
- (2) Notwithstanding subregulation (1)(d) aircraft operators are required to notify the Chief Inspector of Accidents of any aircraft incidents the occurrence of which could be prevented through publication to other operators.

### 4. Requirements as to notification

- (1) Where an accident occurs of which notification is required to be given under regulation 3, the person in command of the aircraft involved, at the time of the accident, or if he be killed or incapacitated, then the owner, operator, hirer, or other person on whose behalf he was in command of the aircraft, as the case may be, shall forthwith send notice to the Minister by the quickest means of communication available, and in the case of an accident occurring in or over Tanzania, shall also notify forthwith the local police authorities of the accident and of the place where it occurred.
- (2) The notice to the Minister referred to in paragraph (1) shall state as far as possible—
- (a) the type, model, nationality and registration marks of the aircraft;
  - (b) the name of the owner, operator and hirer, if any, of the aircraft;
  - (c) the name of the person in command of the aircraft;
  - (d) Greenwich Mean Time of the accident;
  - (e) the last point of departure and point of intended landing;
  - (f) the position of the aircraft with reference to some easily defined geographical point and latitude and longitude;
  - (g) the number of persons (if any)—
    - (i) killed; or
    - (ii) seriously injured,as a result of the accident;
  - (h) the nature of the accident and the extent of damage to the aircraft so far as is known.
- (3) Where an accident occurs in or over Tanzania to an aircraft registered in any State other than Tanzania, the Minister shall, with the least possible delay and by the quickest means of communication available, forward a copy of the notice referred to in subregulation (1) of this regulation to the appropriate authority of the State of Registry of such aircraft; and the Minister shall, as soon as practicable, inform such authority as to whether, and if so, the extent to which, an investigation will be carried out or an inquiry held.

- (4) Where an accident occurs whether in or over Tanzania or elsewhere, the owner, operator, or hirer of the aircraft shall, if so required by notice in writing from the Minister, send to the Minister within such time as may be specified in the notice such information with respect thereto and in such form as the Minister may require.

## **5. Removal of damaged aircraft**

- (1) Where an accident occurs in or over Tanzania of which notification is required to be given under regulation 3, no person other than an authorised person shall have access to the aircraft involved in the accident and the aircraft shall not, except under the authority of the Minister, be moved or otherwise interfered with:

Provided that—

- (a) the aircraft may be removed or interfered with so far as may be necessary for the purpose of extracting persons or animals involved, removing any mail carried by the aircraft, preventing destruction by fire or other cause, or preventing any danger or obstruction to the public or to air navigation or to other transport;
  - (b) goods or passengers' baggage may be removed from the aircraft under the supervision of a police officer, but if the aircraft has come from a place outside Tanzania, shall not be removed from the vicinity of the aircraft except on clearance by or with the consent of the Commissioner of Customs and Excise;
  - (c) if an aircraft is wrecked on the water, the aircraft or any contents thereof may be removed to such extent as be may necessary for bringing it or them to a place of safety.
- (2) In subregulation (1) the expression "authorised person" means any person authorised by the Minister either generally or specially to have access to any aircraft which has been involved in an accident and includes any police officer or any officer of the Customs and Excise Department.
  - (3) Where an accident occurs in or over Tanzania and the Minister is of the opinion that the aircraft involved in the accident is likely to be a danger or obstruction to the public or to air navigation or to other transport, he may order the owner of such aircraft to remove it to such place as the Minister shall indicate, or, in the absence of the owner or in the event of his non-compliance with such order, the Minister shall be empowered to remove the aircraft himself and in either case, the expense incurred in removing such aircraft shall fall upon and be recoverable from the owner of such aircraft and the Minister shall not be liable for any damage occurring to such aircraft during its removal in accordance with the provisions of this paragraph.

## **6. Investigation by Inspector**

- (1) For the purpose of carrying out investigations into the causes and circumstances of accidents to which these Regulations apply, the Minister may appoint persons to be Inspectors of Accidents, including a Chief Inspector and a Deputy Chief Inspector of Accidents.
- (2) The Chief Inspector, if he thinks fit, may himself carry out an investigation or cause an investigation to be carried out by an Inspector of any accident to which these Regulations apply, whether or not such accident is one whereof notification is required to be given under regulation 3.
- (3) Public notice that such investigation is taking place shall be given in such manner as the Minister may think fit and shall state that any person who may desire to make representations concerning the circumstances or causes of the accident may do so in writing within a time to be specified in the notice.

## **7. Procedure on investigation**

- (1) This regulation shall apply to investigation by the Inspector.

- (2) The Inspector by whom the investigation is made shall have power—
  - (a) by summons under his hand to call before him and examine all such persons as he thinks fit, to require such persons to answer any question or furnish any information or produce any books, papers, documents and articles which the Inspector may consider relevant and to retain any such books, papers, documents and articles until the completion of the investigation;
  - (b) to take statements from all such persons as he thinks fit, and to require any such person to make and sign a declaration of the truth of the statement made by him;
  - (c) to have access to and examine any aircraft involved in the accident and the place where the accident occurred, and for that purpose to require any such aircraft or any part or equipment thereof to be preserved unaltered pending examination;
  - (d) to examine, remove, test, take measures for the preservation of, or otherwise deal with, the aircraft or any part thereof or anything contained therein;
  - (e) to enter and inspect any place or building the entry or inspection whereof appears to the Inspector to be necessary for the purpose of the investigation;
  - (f) to take measures for the preservation of evidence.
- (3) The investigation shall be held *in camera*.
- (4) Where it appears to the Inspector that in order to resolve any conflict of evidence or that for any other reason it is expedient so to do, he may permit any person to appear before him and call evidence and examine witnesses.
- (5) Where it appears to the Inspector that any degree of responsibility for the accident may be attributed to any person and if it appears to the Inspector to be practicable, that person, or, if he is deceased, his legal personal representative, shall be given notice that blame may be attributed to him and he shall be permitted to make a statement or give evidence and to produce witnesses and to examine any witnesses from whose evidence it appears that he may be blameworthy.
- (6) The Attorney-General may intervene at any stage of an investigation in order to make representations or to examine witnesses if it appears to him expedient in the public interest.
- (7) Every person summoned by the Inspector as a witness in accordance with this regulation shall be allowed expenses as the Minister may from time to time determine and such expenses shall be paid by the Minister from such funds as may be approved for that purpose.

## 8. Report of Inspector

- (1) Upon the completion of investigation under regulation 6, the Inspector who has carried out the investigation shall make a report to the Minister.
- (2) The Inspector shall in such report state—
  - (a) the circumstances of the case and his conclusions as to the accident, adding any observations and recommendations which he thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future;
  - (b) the extent to which effect has been given to regulation 7(5).
- (3) The Minister may cause the whole or any part of such report to be made public in such manner as he thinks fit.

## 9. Public inquiries

- (1) Where it appears to the Minister that it is expedient to hold a public inquiry into the causes and circumstances of an accident to which these Regulations apply, he may direct that a public inquiry

be held by such person as he may appoint for that purpose; and in any such case any investigation being carried out by an Inspector relating to the accident shall be discontinued.

- (2) The person appointed under the provisions of paragraph (1) to hold a public inquiry (hereinafter called "the Court") shall be either a person who holds or has held judicial office in Tanzania or an advocate of not less than ten years' standing entitled to practise before any of the courts of Tanzania, and the Court shall be assisted by one or more Assessors possessing aeronautical, engineering or other special skill or knowledge (one of whom may be an Inspector), to be appointed by the Minister.
- (3) Where the Minister has directed a public inquiry to be held, the case shall be remitted to the Attorney-General, and thereafter the preparation and presentation of the case shall be conducted by or under the direction of the Attorney-General and the Chief Inspector shall render such assistance to the Court and to the Attorney-General as is in his power and for that purpose shall have the powers conferred by regulation 7(2) on the Inspector with respect to investigations carried out by an Inspector.
- (4) Every public inquiry held under these Regulations shall be conducted in such a manner that, if a charge is made against any person, that person shall have an opportunity of making a defence.
- (5) When a public inquiry has been ordered, the Attorney-General may cause a notice (in these Regulations to be referred to as a "notice of inquiry") to be served upon the owner, operator, hirer, and person in command of any aircraft involved in the accident as well as upon any person who in his opinion ought to be served with such notice; and such notice shall contain a statement of the questions which on the information then in the possession of the<sup>1</sup> Attorney-General may, at any time before the hearing of the inquiry, by a subsequent notice amend, add to, or omit any of the questions specified in the notice of inquiry.
- (6) The Attorney-General, the owner, the operator, the hirer, the person in command of the aircraft, and any other person upon whom a notice of inquiry has been served, shall be deemed to be parties to the proceedings.
- (7) Any other person may by leave of the Court appear; and any person who so appears shall thereupon become a party to the proceedings.
- (8) The Court shall have, for the purposes of the inquiry, all the powers of a subordinate court presided over by a Resident or District magistrate, and without prejudice to those powers, the Court may—
  - (a) enter and inspect or authorise any person to enter and inspect, any place or building within Tanzania the entry or inspection whereof appears to the Court necessary for the purposes of the inquiry;
  - (b) by summons require the attendance as witnesses of all such persons within Tanzania as the Court thinks fit to call and examine, and require such persons to answer any questions or furnish any information or produce any books, papers, documents and articles which the Court may think relevant;
  - (c) administer an oath to any such witness, or require any witness to make and sign a declaration of the truth of the statements made by him in his examination,and the Assessors shall have the same power of entry and inspection as the Court.
- (9) Affidavits and statutory declarations may, by permission of the Court and saving all just exceptions, be used as evidence at the hearing.
- (10) At the time and place appointed for holding the inquiry the Court may proceed with the inquiry whether the parties upon whom a notice of inquiry has been served, or any of them, are present or not.

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It appears that several words may inadvertently have been omitted.

- (11) The Court shall hold the inquiry in public save to the extent to which the Court is of opinion that in the interest of justice or in the public interest any part of the evidence, or any argument relating thereto, shall be heard *in camera*.
- (12) The proceedings of the inquiry shall commence with the production and examination of witnesses on behalf of the Attorney-General and—
  - (a) these witnesses, after being examined on behalf of the Attorney-General, may be cross-examined by the parties in such order as the Court may direct, and may then be re-examined on behalf of the Attorney-General;
  - (b) questions asked and documents tendered as evidence in the course of the examination of these witnesses shall not be open to objection merely on the ground that they do or may raise questions which are not contained in, or which vary from the questions specified in, the notice of inquiry or subsequent notices referred to in subregulation (5).
- (13) When the examination of the witnesses produced on behalf of the Attorney-General has been cancelled, the Attorney-General shall state the questions in reference to the accident and the conduct of persons connected with the accident upon which the opinion of the Court is desired; and in framing the questions for the opinion of the Court, the Attorney-General shall make such modifications in, additions to, or omissions from, the questions in the notice of inquiry or subsequent notices referred to in subregulation (5) as, having regard to the evidence which has been given, the Attorney-General or the Court may think fit.
- (14) After the questions for the opinion of the Court have been stated, the Court shall proceed to hear the parties to the proceedings and determine the questions so stated, and—
  - (a) each party to the proceedings shall be entitled to address the Court and produce witnesses or recall any of the witnesses who have already been examined for further examination and generally adduce evidence;
  - (b) the parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the Court shall direct;
  - (c) further witnesses may also be produced and examined on behalf of the Attorney-General and may be cross-examined on behalf of the Attorney-General.
- (15) When the whole of the evidence in relation to the questions for the opinion of the Court has been concluded, any of the parties who desires may address the Court upon the evidence and the Court may be addressed in reply upon the whole case on behalf of the Attorney-General.
- (16) The Court may adjourn the inquiry from time to time and from place to place within Tanzania, and where an adjournment is asked for by any party to the inquiry, the Court may impose such terms as to payment of costs or otherwise as it may think just as a condition of granting the adjournment.
- (17) The Court shall make a report to the Minister stating fully its opinion in respect of the questions stated under subregulation (13), the circumstances of the case, and the opinion of the Court touching the causes of the accident, and adding any observations and recommendations which the Court thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future, including a recommendation for the cancellation, suspension or endorsement of any licence, certificate or other documents.
- (18) Each Assessor shall either sign the report, with or within reservations, or state in writing his dissent and his reasons for such dissent, and such reservations or dissent and reasons (if any) shall be forwarded to the Minister with the report; and the Minister shall, unless there are good reasons to the contrary, cause any such report and reservations or dissent and reasons (if any) to be made public wholly or in part in such a manner as he thinks fit.
- (19) Every person attending as a witness before the Court shall be allowed such expenses as would be allowed to a witness attending before the High Court and in the case of dispute as to the amount



**Repealed**

to be allowed the matter shall be referred by the court to the registrar of the High Court who on request signed by the Court shall ascertain 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 that party, any expenses may be disallowed if the Court in its discretion so directs.

- (20) The Court may order the costs and expenses of the inquiry, or any party to be paid by any part, if it finds that the accident was due to the act of default or negligence of that party or of any person in the employment of that party; and any such order shall, on the application of any person entitled to the benefit, be enforced by a subordinate court as if the costs and expenses were a penalty imposed by the Court, but, subject to any such order, such costs and expenses shall be paid by the Minister from such funds as may be approved for the purpose.
- (21) Any notice, summons or other document issued under this regulation may be served by sending it by registered post to the last known address of the person to be served.
- (22) The service of any notice, summons or other document may be proved by the oath or affidavit or the person by whom it was served.

**10. Rehearing of public inquiries**

- (1) The Minister may, in any case where a public inquiry has been held, direct a rehearing of the inquiry either generally or as to any part and shall do so—
  - (a) if new and important evidence which could not be produced at the inquiry has been discovered; or
  - (b) if for any other reason there is in his opinion ground for suspecting that a miscarriage of justice has occurred.
- (2) If the Minister directs any inquiry to be reheard, he may order that the inquiry shall be reheard either by the Court by whom the inquiry was heard in the first instance or by some other person or persons appointed by him to hold the rehearing.
- (3) Any rehearing shall be subject to and conducted in accordance with the provisions of these Regulations relating to the holding of public inquiries.

**11. Representation of State by registry of aircraft**

- (1) Where an investigation carried out by the Inspector or a public inquiry relates to an accident which has occurred in or over Tanzania to an aircraft registered in any State other than Tanzania, an accredited representative of the State in which the aircraft is registered, or of any State which has, on request, furnished information in connection with the accident, may take part in the investigation or in the inquiry as the case may be; and he may be accompanied by such technical and other advisers as may be considered necessary by the authorities of the State by which he is appointed.
- (2) Where an accident has occurred in or over Tanzania to an aircraft registered in any State other than Tanzania, the Minister may authorise an investigator appointed by a duly competent authority of that other State to make inquiries, and in that event the Minister shall, so far as he is able, facilitate inquiries by the investigator so appointed.

**12. Offences**

- (1) Any person who—
  - (a) obstructs or impedes the Court, an Inspector or an Assessor, or any person acting under the authority of the Minister in the exercise of any powers or duties under these Regulations; or
  - (b) without reasonable excuse (the proof whereof shall lie on him) fail, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons

or requisition of the Court holding a public inquiry or the Inspector carrying out an investigation under these Regulations,

commits an offence and on conviction is liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two months.

- (2) Any person who contravenes any of the provisions of regulations 3, 4 and 5 commits an offence and on conviction is liable to a fine not exceeding eight thousand shillings or to a term of imprisonment not exceeding six months.

### **13. Savings**

Nothing in these Regulations shall limit the powers of cancelling, suspending or endorsing any licence, certificate or other document, under the Act or subsidiary legislation made thereunder.