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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Spaceflight Activities (Investigation of  
Spaceflight Accidents) Regulations 2021**

**PART 4**

The safety investigation and inspectors' powers

**CHAPTER 1**

The safety investigation

**Objective and independence of a safety investigation**

**11.—**(1) The sole objective of a safety investigation which is undertaken pursuant to these Regulations is the prevention of spaceflight accidents, without the apportionment of blame or liability.

(2) A safety investigation must be independent of and separate from any judicial or administrative proceedings to apportion blame or liability.

(3) Any individual participating in a safety investigation must perform their duties independently and not seek or accept instructions from any person other than the Chief Inspector, the investigator-in-charge or the accredited representative.

**The extent of a safety investigation**

**12.—**(1) The Chief Inspector must determine—

- (a) the extent of a safety investigation, and
- (b) the procedure to be followed in conducting a safety investigation.

(2) The Chief Inspector must determine the matters referred to in paragraph (1) taking into account the lessons expected to be drawn from such safety investigations for the improvement of safety of spaceflight activities.

**Reopening of safety investigation**

**13.—**(1) Where, following publication of a final safety investigation report relating to a spaceflight accident, evidence has become available which, in the Chief Inspector's opinion, is new and significant, the Chief Inspector must cause the safety investigation to be reopened.

(2) Following publication of a safety investigation report relating to a spaceflight accident, the Chief Inspector may cause the safety investigation to be reopened for any other reason where the Chief Inspector considers it appropriate to do so.

## CHAPTER 2

### The duty to investigate and powers to investigate

#### **Duty to investigate**

14. The Chief Inspector must cause a safety investigation to be conducted in accordance with these Regulations where a serious spaceflight accident occurs in or over the United Kingdom.

#### **Power to investigate**

15.—(1) The Chief Inspector may cause a safety investigation to be conducted in accordance with these Regulations where—

- (a) a spaceflight accident occurs in or over the United Kingdom, and
- (b) the Chief Inspector expects to draw safety lessons for spaceflight activities from the safety investigation.

(2) In this regulation “spaceflight accident” does not include a serious spaceflight accident.

#### **Power to investigate spaceflight accidents occurring elsewhere than the United Kingdom**

16. If practicable, the Chief Inspector may cause a safety investigation to be conducted in accordance with these Regulations where—

- (a) a spaceflight accident occurs elsewhere than in or over the United Kingdom,
- (b) the spaceflight accident involves a launch vehicle in respect of which the United Kingdom is the state—
  - (i) from which the launch vehicle was launched,
  - (ii) having jurisdiction over the organisation responsible for the design of the launch vehicle,
  - (iii) having jurisdiction over the organisation responsible for the manufacture or final assembly of the launch vehicle, or of any component parts of the launch vehicle,
  - (iv) having jurisdiction over the organisation responsible for the maintenance of the launch vehicle, or any component parts of the launch vehicle, or
  - (v) in which the spaceflight operator’s principal place of business is located, and
- (c) an investigation is not conducted by another state, or the United Kingdom has been requested by another state to assist with an investigation carried out on behalf of that state.

## CHAPTER 3

### Assistance with UK safety investigations

#### **Assistance with safety investigations**

17.—(1) SAIA may request assistance in a safety investigation from safety investigation authorities from other states.

(2) SAIA may request the regulator and other relevant bodies to participate in a safety investigation by supplying—

- (a) information relating to the spaceflight accident, or
- (b) equipment,

to help with that investigation.

(3) The Chief Inspector may appoint an adviser to assist an investigator-in-charge of a safety investigation, under the supervision of that investigator.

(4) The Chief Inspector may invite—

- (a) a relevant body, or
- (b) the regulator,

to appoint an adviser to assist in a safety investigation.

(5) Paragraphs (3) and (4) do not apply if making such an appointment or giving such an invitation would give rise to a conflict of interest for SAIA.

(6) In this regulation, “relevant body” means any international body or national body involved with spaceflight activities.

## CHAPTER 4

### Accredited representatives, advisers and state experts

#### **Accredited representatives and advisers**

**18.**—(1) A state may appoint an accredited representative to participate in a safety investigation where—

- (a) the state has been notified of the occurrence of a spaceflight accident in or over the United Kingdom under regulation 7(2), or
- (b) the state has provided assistance to SAIA following a request under regulation 17(1).

(2) An accredited representative participating in a safety investigation may appoint an adviser to assist the representative to participate in the safety investigation.

(3) Subject to paragraph (4), where the spaceflight accident occurs in or over the United Kingdom, an accredited representative has the right in a safety investigation to—

- (a) visit the scene of the spaceflight accident,
- (b) examine the wreckage,
- (c) obtain information supplied by witnesses, and suggest lines of questioning,
- (d) have full access to all evidence relevant to the investigation as soon as possible,
- (e) receive copies of all documents relevant to the investigation and any other information gathered by the investigator-in-charge during the investigation,
- (f) participate in any analysis or interpretation of data recorded on any media,
- (g) participate in off-scene investigation activities such as component examinations, technical briefings, tests and simulations,
- (h) participate in investigation progress meetings, including deliberations related to analysis, findings, causes and safety recommendations, and
- (i) make submissions to the investigator-in-charge in respect of the various elements of the investigation.

(4) The participation of an accredited representative appointed under paragraph (1)(b)—

- (a) may be limited to those areas of the investigation in relation to which assistance has been provided by the state, and the rights of the accredited representative under paragraph (3) are limited accordingly;
- (b) are subject to any international obligations of the United Kingdom.

(5) The rights set out in paragraph (3) may also be exercised by an adviser assisting an accredited representative, but only so far as is necessary to enable the accredited representative concerned to participate effectively in the investigation.

### **State appointment of experts**

**19.**—(1) A state which has an interest in a safety investigation because one or more of its citizens have died or suffered serious injuries in the spaceflight accident being investigated may appoint an expert to the safety investigation (a “state expert”).

(2) A state expert may—

- (a) visit the site of the accident;
- (b) have access to—
  - (i) factual information which may be published under regulation 30(8);
  - (ii) information on the progress of the safety investigation;
  - (iii) a copy of the final safety investigation report.

### **Participation in another state’s investigation**

**20.**—(1) If the Chief Inspector receives notification from another state of the occurrence of a spaceflight accident, the Chief Inspector—

- (a) may appoint an accredited representative to participate in the investigation on behalf of the United Kingdom, and
  - (b) must, as soon as possible, inform that state whether the United Kingdom intends to appoint an accredited representative.
- (2) Where an accredited representative is appointed, the Chief Inspector—
- (a) must send to the state which gave the notification the accredited representative’s—
    - (i) name and contact details, and
    - (ii) expected date of travel to the state if appropriate, and
  - (b) may appoint an adviser to assist the accredited representative in participating in the investigation.
- (3) The accredited representative of SAIA may request permission from the relevant authorities in the state concerned to take any of the actions referred to in regulation 18(3).
- (4) SAIA may provide assistance in an investigation in another state to safety investigation authorities from that state if requested.

## **CHAPTER 5**

### **Investigator-in-charge**

#### **Investigator-in-charge**

**21.**—(1) The conduct of a safety investigation is within the sole discretion of the investigator-in-charge of that investigation.

(2) The investigator-in-charge may take the measures necessary to carry out an effective safety investigation, and for this purpose may exercise any of the powers referred to in regulations 23 to 26.

### **Delegation of powers by investigator-in-charge**

22.—(1) The investigator-in-charge may authorise the following persons to exercise the powers listed in regulations 23 to 26—

- (a) the advisers of the investigator-in-charge, and
- (b) accredited representatives appointed under regulation 18(1) and their advisers.

(2) The investigator-in-charge may only give the authorisation referred to in paragraph (1) as far as necessary to enable the persons referred to in that paragraph to participate effectively in a safety investigation.

(3) Where the safety investigation is not taking place in the United Kingdom, the investigator-in-charge may only give the authorisation referred to in paragraph (1) if, and to the extent that, the state where the investigation is taking place permits the powers concerned to be exercised by the persons referred to in that paragraph.

## CHAPTER 6

### Inspectors' powers

### **Rights of access to information and records**

23.—(1) Where the spaceflight accident occurs in or over the United Kingdom, the investigator-in-charge is entitled, notwithstanding any confidentiality obligations to which any person is subject, to—

- (a) immediate and unrestricted access to the site of the spaceflight accident as well as to the launch vehicle, its contents or its wreckage;
- (b) carry out an immediate listing of evidence and controlled removal of debris or components for examination or analysis purposes;
- (c) immediate access to and control over—
  - (i) any equipment which has recorded data relating to the launch vehicle;
  - (ii) any data recorded during the spaceflight activities in relation to the launch vehicle;
- (d) be provided with—
  - (i) results of autopsy examinations of the bodies of any fatally injured individuals and tests made from samples taken from those bodies;
  - (ii) results of medical examinations of the individuals involved in the operation of the launch vehicle or tests carried out on samples taken from those individuals;
- (e) access on request to any relevant information or records held by a person involved.

(2) Where the spaceflight accident occurs outside the United Kingdom in the territory of another state and a safety investigation is being carried out under regulation 16, the investigator-in-charge may request permission from the relevant authorities in the state concerned—

- (a) to have the access referred to in paragraph (1)(a), (c) and (e), and
- (b) to be provided with the information referred to in paragraph (1)(b) and (d).

### **Inspectors' powers of entry and inspection of land or premises in the United Kingdom**

24.—(1) Subject to paragraph (2), an Investigating Inspector may, on production of that Inspector's authority to act as an Inspector, enter and inspect any land or premises, including any dwelling, any ship involved in the spaceflight activities and any launch vehicle, in the United Kingdom where, in the opinion of the investigator-in-charge, such action is necessary for the purposes of the safety investigation.

(2) An Investigating Inspector may not enter and inspect any dwelling unless one of the following conditions is met—

- (a) the occupier of the dwelling has consented to the entry and inspection;
- (b) such entry and inspection has been authorised by a warrant issued by a justice, on an application made by an Investigating Inspector and supported by—
  - (i) in England and Wales, an information in writing,
  - (ii) in Scotland, evidence on oath, or
  - (iii) in Northern Ireland, a complaint on oath;
- (c) the investigator-in-charge is satisfied that access to the dwelling is required urgently and that the requirement to obtain consent or a warrant would undermine the safety investigation.

(3) A justice may issue a warrant if the justice is satisfied that there are reasonable grounds for entering and inspecting the dwelling for the purposes of the safety investigation and that at least one of the following conditions is met—

- (a) entry to the dwelling has been, or is likely to be, refused and notice of the intention to apply for a warrant has been served on the occupier;
- (b) asking for consent to enter and inspect the dwelling would undermine the safety investigation;
- (c) entry to the dwelling is required urgently;
- (d) the dwelling is unoccupied or the occupier is temporarily absent.

(4) A warrant may authorise a maximum of two Investigating Inspectors to enter and inspect a dwelling.

(5) A warrant is valid for one month beginning on the date of its issue.

(6) Where an Investigating Inspector exercises the power conferred by paragraph (1), that Inspector may—

- (a) search the land or premises for any item,
- (b) examine anything that is on the land or premises,
- (c) require any person to produce any document or record that is in that person’s possession or control,
- (d) seize, detain or remove any item that is on the land or premises and any document or record that has been produced in accordance with sub-paragraph (c), and
- (e) take copies of or extracts from any document or record found on the land or premises.

(7) Any item, document or record seized by an Investigating Inspector may be retained until the completion of the safety investigation.

(8) In this regulation—

“dwelling” means any premises wholly or mainly used as a place of residence or abode (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);

“a justice” means—

- (a) in England and Wales, a justice of the peace,
- (b) in Scotland, a sheriff or a summary sheriff, and
- (c) in Northern Ireland, a lay magistrate;

“ship” means every description of vessel whether or not used in navigation.

## CHAPTER 7

### Inspectors' powers in relation to witnesses and the release of evidence

#### **Inspectors' powers to call and examine a witness**

**25.**—(1) An Investigating Inspector has the power to call and examine a witness without delay and to require a witness to furnish or produce information or evidence relevant to the safety investigation.

(2) The power conferred by paragraph (1) must be exercised by the service of a summons signed by an Investigating Inspector and requiring any individual (“witness”) to attend a witness interview at a time and place stated in the summons, in order to—

- (a) answer any question, or
- (b) produce any document, record, information or other evidence,

which is, in the opinion of that Inspector, relevant to the safety investigation.

(3) A witness called for examination by an Investigating Inspector may nominate a person to be present at the examination.

(4) The investigator-in-charge may at any time exclude any person from being present at an examination of a witness if—

- (a) that person is not a solicitor or other professional legal adviser acting solely on behalf of the witness being interviewed,
- (b) both the Inspector and Chief Inspector have substantial reason to believe that the person's presence would hamper the investigation with the result that the objective in regulation 11 is likely to be hindered and future safety thereby endangered, and
- (c) the Chief Inspector is satisfied, having regard to all the circumstances, that it is proper to exclude that person.

(5) Where a person nominated to be present has been excluded in accordance with paragraph (4), the witness required to attend may nominate another person to be present at the witness interview in place of the excluded person and paragraph (4) applies to that other person.

(6) A witness must be allowed the expenses of attending a witness interview, payable by SAIA.

#### **Inspectors' powers relating to evidence from a witness**

**26.** An Investigating Inspector has the power to—

- (a) record a witness interview in any manner that the Investigating Inspector considers appropriate,
- (b) take a statement from a witness and require the witness to make and sign a declaration of truth in relation to that statement, and
- (c) retain any evidence which is produced by a witness or which the investigator-in-charge has access to or control over, by virtue of these Regulations, until completion of the safety investigation.

#### **Release of evidence to owner**

**27.**—(1) This regulation applies where property is held by SAIA in a hangar, or in any other facility which is being used by SAIA, for the purposes of a safety investigation.

(2) Subject to paragraph (5), where any such property is no longer required for the purposes of the safety investigation SAIA must inform the owner of the property, by serving a notice in writing,

that it will be released to that owner at the place and date specified in the notice and in accordance with any other arrangements that are specified in the notice.

(3) An owner on whom such a notice is served must collect the property in accordance with the arrangements specified in the notice (or in accordance with any alternative arrangements that the owner agrees in writing with SAIA), failing which—

- (a) SAIA may make arrangements for the destruction or disposal of the property, and
- (b) the reasonable costs of such destruction or disposal will be recoverable from the owner as a debt due to the Secretary of State<sup>(1)</sup>.

(4) Notice served pursuant to paragraph (2)—

- (a) must not specify a date for collection of the property earlier than one month beginning with the date on which the notice was served, and
- (b) must include a warning that a failure by the owner to collect the property on the date specified in the notice (or such other date that the owner agrees in writing with SAIA) will entitle SAIA to make arrangements for the destruction or disposal of the property and that the reasonable costs of destruction or disposal will be recoverable from the owner as a debt due to the Secretary of State.

(5) Where any property referred to in paragraph (1) is no longer required for the purposes of the safety investigation and SAIA is satisfied that a person, body or authority (other than the owner) is entitled (under statutory or common law powers that apply in any part of the United Kingdom) to collect that property for the purposes of another investigation and has confirmed their intention to do so—

- (a) paragraph (2) does not apply to that property, and
- (b) SAIA must release it to that person, body or authority and inform the owner of the property, by serving a notice in writing, that it has been so released.

## CHAPTER 8

### Expenses

#### Recovery of expenses

**28.**—(1) SAIA may recover reasonable expenses in, or in connection with, carrying out a safety investigation under these Regulations from a licensee.

(2) The licensees are prescribed persons for the purposes of section 20(2)(b) of the 2018 Act.

(3) In this regulation “expenses” includes reasonable costs of—

- (a) recovering property, transporting it from the site of the spaceflight accident to a hangar or any other facility which is being used by SAIA for the purposes of a safety investigation and storing the property in that hangar or facility;
- (b) destroying or disposing of property where SAIA has to make arrangements for such destruction or disposal in accordance with regulation 27;
- (c) overtime, travel or subsistence claims made by staff of SAIA in connection with a safety investigation.

(4) The reasonable costs referred to in this regulation will be recoverable from a licensee as a debt due to the Secretary of State.

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(1) See regulation 28(4).