
STATUTORY INSTRUMENTS

1989 No. 2062

**The Civil Aviation (Investigation
of Air Accidents) Regulations 1989**

PART II

REVIEW BOARD

Notice of Review

13.—(1) Any person who has been served with a notice under regulation 12(1) above may, at any time before the expiration of the period of 21 days from the date on which he has been served with a copy of the report under regulation 12(4) above, (or within such further period as may be allowed under regulation 22 below) serve on the Secretary of State written notice (hereinafter called the “notice of review”) that he wishes those findings and conclusions in the report from which it appears that his reputation or, as the case may be, the reputation of the person on whose behalf representations have been made under regulation 12(3) above, is likely to be adversely affected, to be reviewed by a Review Board.

(2) The notice of review shall specify the findings and conclusions that it is considered should be reviewed by the Review Board, shall state concisely the grounds on which the findings and conclusions in the report are challenged and the reasons why the reputation of the person requesting the review is likely to be adversely affected by such findings and conclusions and there shall be appended to the notice a copy of any representations made under regulation 12(3) above.

(3) A copy of the notice of review (together with a copy of any representations made under regulation 12(3) above) shall, at the same time as the notice of review is served on the Secretary of State, be served on the Treasury Solicitor, and the person requesting the review shall then or as soon as possible thereafter inform the Treasury Solicitor whether or not he proposes to be represented at the hearing of the review and of the name and address of the solicitor, if any, acting for him or of any other person who will be representing him at the review.

(4) A copy of the notice of review (together with a copy of any representations made under regulation 12(3) above) shall also be served by the person requesting the review on all other persons on whom the Inspector has served a notice under regulation 12(1) above, and for this purpose the person requesting the review may require the Inspector to furnish him with the names and addresses of those persons.

Appointment of Review Board and preliminary meeting

14.—(1) Where a notice of review in accordance with regulation 13 above has been served, the review shall be entrusted to a Review Board consisting of a chairman to be appointed for the purpose by the Lord Chancellor and such technical assessors as may be so appointed.

(2) Before the hearing of the review the Review Board shall hold a preliminary meeting at which any directions may be given or any preliminary interlocutory order as to the procedure may be made. Not less than 21 days' notice of the date, time and place of the preliminary meeting shall be given by the Treasury Solicitor to the person requesting the review and all persons on whom a copy of the

notice of review has been served and any person intending to make any application to the Review Board at the meeting shall give notice thereof to the Treasury Solicitor.

(3) The preliminary meeting shall be in public unless the Review Board determines that it is to be held in private in the interests of justice or in the public interest.

(4) Where at any time during the preliminary meeting the Review Board is satisfied that any of the findings and conclusions in the Inspector's report do not adversely affect the reputation of the person requesting the review, the Review Board may decide not to proceed with the review in respect of those findings and conclusions.

(5) The Review Board shall not reach a decision under paragraph (4) above unless it has given the person requesting the review and all persons on whom a copy of the notice of review has been served an opportunity to make representations as to whether the review should be proceeded with.

(6) The Treasury Solicitor shall serve on the person requesting the review and all other persons on whom the Inspector has served a notice under regulation 12(1) above, not less than 21 days' notice of the date, time and place of the hearing of the review.

(7) The hearing shall be in public unless the Review Board determines, in relation to the whole or part of the review, that it is to be held in private in the interests of justice or in the public interest:

Provided that a decision by the Review Board that the hearing, or part of it, shall be held in private shall not preclude the Inspector who made the report or a member of the Council on Tribunals, or in the case of a Review Board sitting in Scotland, any member of the Scottish Committee of the Council, from being present at the hearing.

(8) The Review Board shall be assisted by the Treasury Solicitor, or by Counsel instructed by him, who shall present any evidence required by the Review Board and may examine any witnesses giving evidence at the review; the Chief Inspector shall render such assistance to the Review Board as is in his power.

Proceedings of Review Board

15.—(1) The person requesting the review shall be heard by the Review Board and shall have the right to give evidence, produce witnesses and examine any other witnesses giving evidence at the review. The Inspector who made the report shall be entitled to be heard by the Review Board.

(2) Any person who in the opinion of the Review Board may be directly affected by the review may be granted leave to appear and to give evidence, produce witnesses and examine any other witnesses giving evidence at the review. Any application for such leave may be made to the Review Board at the preliminary meeting.

(3) In any proceedings of the Review Board the person requesting the review and any other person appearing pursuant to leave granted under paragraph (2) above may appear in person or be represented by any other person whom he may have authorised to represent him.

(4) The proceedings of the Review Board shall commence with the giving of evidence by the person requesting the review and the production and examination of witnesses on his behalf. When the examination of witnesses on behalf of such person has been concluded the Review Board shall proceed to hear the other persons appearing before it.

(5) The Review Board shall have all the powers of an Inspector under these Regulation and, in addition, may administer an oath to or require a solemn affirmation from any witness.

(a) (6) (a) Where new and important evidence is given at the review, which was not given at the Inspector's investigation, the Review Board may, on an application by the Chief Inspector, discontinue the review, and the Chief Inspector shall thereupon cause the investigation to be re-opened.

(b) Where at any time during the review the Review Board is satisfied that any of the findings and conclusions in the Inspector's report do not adversely affect the reputation of the

person in respect of whom the notice of review was served, the Review Board may discontinue the review in respect of those findings and conclusions.

- (c) Where a review is totally discontinued under this paragraph no report shall be made to the Secretary of State under paragraph (9) below.

(7) Every person summoned by the Review Board as a witness shall be allowed such expenses as the Secretary of State, with the approval of the Treasury, may determine.

- (a) (8) (a) The Review Board may, if it thinks fit, order any person who appears or is represented as mentioned in paragraph (3) above to pay in respect of the costs of the Review Board or of any other person who appears or is represented as mentioned in paragraph (3) above such sum as may be specified in the order, or the taxed amount of those costs or such part thereof as may be so specified upon such basis as may be so specified, and, without prejudice to the generality of the foregoing, the Review Board shall, in determining whether to make an order as to costs against any person, have regard to whether or not that person took advantage of such opportunities as were open to him to make representations under regulation 12 above or, where that person gave new and important evidence at the review and the review was discontinued, whether or not that person could reasonably have given that evidence at the Inspector's investigation.
- (b) Any costs required by an order under sub-paragraph (a) above to be taxed shall be taxed by the Supreme Court Taxing Office on the basis specified in the order.
- (c) Any sum payable by virtue of an order under sub-paragraph (a) shall, if the county court so orders, be recoverable by execution issued from the county court or otherwise as if payable under an order of the court.

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

Publication of Reports

16. The Secretary of State shall, unless in his opinion there are good reasons to the contrary, cause the Inspector's report and, where a Review Board has been held, the report of the Review Board, to be made public wholly or in part in such manner as he thinks fit:

Provided that—

- (i) in any case where notice has been served under regulation 12(1) above, the Inspector's report shall not be published before the expiry of the time for service of a notice of review under regulation 13(1) above; and
- (ii) save where a review is totally discontinued under regulation 15(5) above, in any case where a Review Board is held, the Inspector's report shall not be published until the Review Board has made a report to the Secretary of State under regulation 15(9) above.

Reopening of Investigation or Review

17.—(1) In the case of any formal investigation which has not been the subject of a review, the Chief Inspector may cause the investigation to be reopened, and in the case of a review, including a review which has been discontinued under regulation 15(6), the Secretary of State may direct the review to be reheard or, if a decision has been reached under regulation 14(4) not to proceed with the review, may direct the review to be proceeded with, in each case either generally or as to any part thereof, and the Chief Inspector or the Secretary of State, as the case may be, shall do so—

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- (a) if after the completion of the investigation or the completion or curtailment of the review evidence has been disclosed which is in his opinion both new and important, 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 Secretary of State directs any review to be reheard or proceeded with the Lord Chancellor may direct that the review shall be reheard or proceeded with either by the Review Board by whom it was heard or to which it had been entrusted in the first instance or by some other Review Board appointed by him to hold the rehearing.
- (3) Any investigation reopened or review reheard or proceeded with shall be subject to and conducted in accordance with the provisions of these Regulations relating to a formal investigation or review thereof as the case may be.