

# Aviation Occurrence Investigation Act

## Chapter 1 General Provisions

### Article 1

The Aviation Occurrence Investigation Act (hereinafter referred to as this Act) is enacted for the purpose of improving aviation safety through independent investigation of aviation occurrences.

### Article 2

The terms contained in this Act are defined as follows:

1. Aviation occurrence: 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:
  - (1) A person sustains death or serious injuries;
  - (2) The aircraft sustains substantial damage or missing; or
  - (3) Death or serious injuries of a person or substantial damage of the aircraft nearly occurred.
2. Investigation report: A report prepared by the Investigator-in-Charge (IIC) compiling submissions from all technical sub-groups in accordance with the format administered by the International Civil Aviation Organization (ICAO), containing factual information, analysis, conclusions, and aviation safety recommendations reviewed and approved under this Act.
3. Aviation occurrence investigation: A process consisting of aviation occurrence identification, gathering, compiling, and analysis of factual data, probable causes identification, submission of safety recommendations, and investigation report preparation.
4. Civil aircraft: An aircraft that is used for the purposes of civil air transportation services or general aviation services and has completed the process of registration and airworthiness inspection in the civil aeronautics administration authorities.
5. Public aircraft: An aircraft owned or used by a government agency to carry out official duties, excluding the military aircraft administered by the Ministry of Defense.
6. Ultra-light aircraft: An aircraft that has power and capacity to carry passengers, is no more than two hundred and eighty kilograms in net weight, has a maximum fuel tank capacity of twenty eight liters, has take-off speed no more than sixty-five kilometers per

hour for maximum take off weight, and has power shut down speed no more than sixty-four kilometers per hour.

7. Flight Data Recorder (FDR): Device of the flight recorder that records aircraft system, performance, and environment parameters.
8. Cockpit Voice Recorder (CVR): Device of the flight recorder that records the voices and other sounds in the cockpit.

### Article 3

In order to conduct impartial investigation of aviation occurrences and to improve aviation safety, there shall be established the Aviation Safety Council (hereinafter referred to as ASC). The ASC shall carry out its duties independently according to law.

### Article 4

The scope of aircraft to be investigated under this Act shall consist of civil aircraft, public aircraft, and ultra-light aircraft.

### Article 5

The objective of the ASC 's investigation of aviation occurrence is to prevent recurrence of similar occurrences. It is not the purpose of such investigation to apportion blame or liability.

The ASC shall carry out its duties independently. The parallel investigations and handling process conducted by other competent authorities concerned shall not impede the investigation of the ASC.

The investigation report of the ASC shall not be used as the sole evidence for a criminal proceeding.

### Article 6

When an aircraft occurrence of an aircraft of any nationality arises in the territory of the Republic of China (hereinafter referred to as ROC), the ASC shall undertake the investigation. When an aviation occurrence of an aircraft registered in the ROC or operated by an airline incorporated in the ROC arises on the high seas or in the territory not subject to any state's jurisdiction, the ASC shall undertake the investigation.

Upon receipt of the notification of an aviation occurrence arising outside the territory of the ROC, which involves an aircraft registered in the ROC, operated by an airline incorporated in the ROC, or designed, or manufactured by the companies incorporated in the ROC, the ASC shall immediately contact the investigation authority of the State of Occurrence to request for participation in the investigation. The ASC shall appoint an accredited

representative to participate in the investigation upon receipt of the invitation.

## Article 7

When an aviation occurrence of an aircraft of any nationality arises in the territory of the ROC, and involves the airport or air traffic management of any ROC military authorities and/or organizations, or flight operation of any ROC military aircraft, the ASC shall, to the extent of involvement under the ASC competence, undertake investigation with the related authorities and/or organizations.

## Article 8

The ASC shall be the sole competent agency to release the information related to the investigation of aviation occurrences under this Act, except for the information falling under the competence of other authorities concerned.

In the course of the investigation of aviation occurrence, The ASC shall release, whenever appropriate, the information related to the investigation,

## Article 9

When an aviation occurrence mentioned in the first paragraph of Article 6 arises, the owner of the aircraft, the operator of the aircraft, and the authorities and/or organizations shall notify the ASC within two hours upon knowing of such occurrence.

When an alleged aviation occurrence likely to conform the definition mentioned by the first paragraph of Article 6 arises, the owner of the aircraft, the operator of the aircraft, and the air traffic control authorities and/or organizations shall notify the ASC within twenty-four hours upon knowing of such occurrence.

## **Chapter 2 Aviation Occurrence Investigation**

### Article 10

When an aviation occurrence mentioned by the first paragraph of Article 6 arises, the ASC shall immediately forward a notification to the aviation occurrence investigation authority of the State of Registry, the State of the Operator, the State of Design, and the State of Manufacture. The ASC, having considered the factual situation of such occurrence, may immediately forward an additional notification to the aviation occurrence investigation authority of the state whose nationals have sustained death thereby.

## Article 11

When an aviation occurrence mentioned by the first paragraph of Article 6 arises, the ASC shall designate an aviation safety investigator as the IIC, who shall assemble an Investigation Task Force and be fully responsible for the conduct of the investigation. The IIC shall invite representatives from the authorities and organizations concerned and experts to participate in the investigation.

The Investigation Task Force shall dissolve immediately after the publication of the investigation report.

## Article 12

When an aviation occurrence mentioned in the first paragraph of Article 6 arises, the Civil Aeronautics Administration (hereinafter referred to as the CAA), the owner of the aircraft, the operator of the aircraft, and the authorities concerned, shall dispatch their representatives to the site of the occurrence and provide assistance to investigation operation as instructed by the Investigation Task Force.

When an aviation occurrence has occurred, the operator of the aircraft shall take necessary measures to protect the integrity of the CVR data after the aircraft has landed.

When an aviation occurrence has occurred, all the authorities concerned shall fulfill their duties in accordance with the Disaster Prevention and Relief Law as the preliminary step, blockade the occurrence site, and inform the ASC of the measures taken at the site.

## Article 13

Unless it is necessary to take measures for the purposes of rescuing lives and firefighting, the integrity of the occurrence site shall be preserved. Should the clearance of the occurrence site be considered necessary, it is obligatory to obtain approval from the IIC in advance of doing so.

## Article 14

As the necessary measures to conduct an investigation into aviation occurrences, the ASC may have the priority to control and handle the aircraft, the aircraft wreckage, the FDR, the CVR, and other data and objects that may have a bearing on the occurrence.

## Article 15

The competent authorities of the occurrence site, the owner of the aircraft, and the operator of the aircraft, shall render assistance to the ASC in searching, transporting, placing,

safeguarding, and securing the data and objects as mentioned in the preceding article.

Should there be any risk of displacement, losing, or perishing of the above-mentioned data and objects, the ASC shall take the measures of preservation, including photographing, sketching, marking, and other necessary actions to record and to protect such data and objects.

Any person, who discovers the data and objects mentioned in the preceding article in the public and/or private land or premises, shall notify the ASC or other authorities concerned immediately and shall not remove any of such data and objects. Upon receiving such notification, the ASC shall enter such site with the authorities concerned. The IIC or any representatives designated by the IIC shall take full control on verification of the data and objects as well as handling thereof.

## Article 16

When an aviation occurrence arises in the water, the ASC, having thoroughly evaluated the necessity of investigation and the feasibility of recovery, shall immediately commence the activities to locate, recover, and transport the aircraft, the aircraft wreckage, the FDR, and the CVR mentioned in Article 14.

When an aviation occurrence arises on land, the ASC, having thoroughly evaluated the necessity of investigation, shall immediately commence the activities to search, survey and transport the aircraft, the aircraft wreckage, the FDR, and the CVR mentioned in Article 14.

For the purposes of conducting investigation operations in the water and on land as mentioned in the preceding two paragraphs, the ASC may request assistances from the authorities concerned, the owner of the aircraft, and the operator of the aircraft. The authorities concerned, the owner of the aircraft, or the operator of the aircraft that are so requested shall not evade, obstruct, or refuse to provide the required assistance without reasonable grounds.

## Article 17

When an aviation occurrence mentioned in the first paragraph of Article 6 arises, the owner of the aircraft, the operator of the aircraft, the CAA, and the other authorities concerned shall provide the following data pertinent to the investigation in accordance with the request of the ASC Investigation Task Force within a specified time.

1. Loading status of the aircraft and dispatch information of the flight.
2. Records of training and personal backgrounds, licenses, and other data of the aviation personnel that are of assistance for the assessment of the occurrence.

3. Data and records related to the airworthiness and maintenance of the aircraft.
4. Data related to weather and air traffic control.
5. Data related airport and navigation aid equipment.
6. Data related to search, rescue, and firefighting.
7. Data related to the inspection of the flight operation, airworthiness, and maintenance of the aircraft.
8. Data related to the FDR and CVR of the aircraft.
9. Other data relevant to the aviation occurrence.

## Article 18

When an aviation occurrence mentioned in the first paragraph of Article 6 arises, members of the ASC Investigation Task Force may interview the relevant personnel. Those persons shall not evade or refuse the interview without reasonable grounds and shall provide truthful representation consistent with the facts. The supervisor(s) and employer of such interviewees shall not obstruct the interview.

## Article 19

Unless regulated otherwise by other laws, the ASC Investigation Task Force may entrust the prosecuting authorities, or commission any qualified independent and professional domestic/foreign authorities or organizations to perform autopsy, detailed examinations, tests, and collection of other relevant information of the deceased flight crews and passengers, to identify their cause of death, and the status of using alcohol, drugs, or toxic substances.

## Article 20

When an aviation occurrence mentioned in the first paragraph of Article 6 arises, the ASC Investigation Task Force may inquire the intention of the investigation authorities of the State of Registry, the State of the Operator, the State of Design and Manufacture, and the States whose nationals having sustained death to participate in the investigation. The ASC may, upon receipt of the representatives' commitment on confidentiality and compliance with the IIC's command, permit the representatives to participate in part of the investigation as directed by the IIC.

## Article 21

Except for the spokesperson designated by the ASC or the official website of the ASC, no person who participates in the investigation, nor the supervisor or employer of such person, shall in the course of the investigation disclose publicly any information related to investigation of the aviation occurrence.

## Article 22

Except for the necessity of analysis in the investigation of an aviation occurrence, the ASC shall not publish in the investigation report the following information for which personal privacy is involved:

1. The testimony and evidence acquired in the course of the investigation;
2. Communication records between the persons who have been involved in the operation of the aircraft;
3. Medical records or other private information of the persons who have been involved in the aircraft occurrence; and
4. Transcript of the CVR.

Sound tracks of the CVR and the interviews shall not be released to the public.

## Article 23

If, in the course of an investigation, it becomes known to, or is suspected by the ASC, that an act of illegal interference with the flight was involved, the ASC shall immediately inform the responsible domestic and foreign authorities concerned and may provide assistance in terms of investigation to the competent authorities concerned for the part related to the aviation occurrence.

## **Chapter 3 Review, Revision, and Publication of the Investigation Report**

### Article 24

Upon concluding an aviation occurrence investigation, the ASC Investigation Task Force shall prepare a draft of aviation occurrence investigation report and send a copy of the draft report to all the foreign/domestic authorities and/or organizations participating in the investigation and being investigated for the purpose of seeking their comments to be submitted within sixty days. Taking into consideration of the comments from such authorities and organizations, the ASC Investigation Task Force may amend the draft report and submit it to the ASC Board meeting for review.

Should any authority(s) and/or organization(s) participating in the investigation or being investigated disagree with the reviewed contents of the draft report, and file a written petition to the ASC, the ASC shall notify such authority(s) and/or organization(s) to present their opinions in the ASC Board meeting.

The draft of aviation occurrence investigation report, having been reviewed, revised, and approved by the ASC Board meeting, shall be published.

## Article 25

The ASC shall send the aviation occurrence investigation report to the State of Registry, the State of the Operator, the State of Design, the State of Manufacture, the States whose nationals having sustained death thereby, the ICAO, the authorities concerned, the owner of the aircraft, and the operator of the aircraft.

## Article 26

After the aviation occurrence investigation report is published, the investigation shall be re-opened when any new factual information or new evidence is discovered and be considered by the ASC Board meeting to be significant enough to affect the substantial content of the aviation occurrence investigation report.

## Article 27

The government authorities concerned shall submit a management report to the Executive Yuan within ninety days after receipt of the aviation occurrence investigation report and send a copy to the ASC. The management report shall contain detailed and concrete implementation plans responding to the aviation safety improvement recommendations that are considered practicable. With respect to the recommendations considered impracticable, detailed reasons shall also be stated.

The execution of the detailed implementation plans mentioned in the preceding paragraph shall be supervised by the Executive Yuan and tracked by the ASC.

Should any government authorities fail to comply with the aviation safety recommendations within appropriate time and fail to rectify the shortcomings, the Executive Yuan shall impose appropriate sanctions.

## **Chapter 4 Penalties**

### Article 28

The owner of the aircraft or the operator of the aircraft meeting any of the following conditions shall be subject to an administrative fine from NTD 600,000 to NTD 3 millions and shall be required to provide the assistance within a specified time. Should the assistance not be provided after the specified deadline, such fine may be imposed consecutively for each non-compliance.



1. Violating the first paragraph of Article 12 by not providing assistance without reasonable grounds;
2. Violating the third paragraph of Article 16 by evading, obstructing, or refusing to provide the required assistance to the ASC

## Article 29

The owner of the aircraft or the operator of the aircraft violating Article 17 by not providing relevant data before the specified deadline without reasonable grounds, or by providing untruthful data, shall be subject to an administrative fine from NTD 500,000 to NTD 2.5 millions, and shall be required to provide such data within a specified time. Should such data not be provided after the deadline, such fine shall be imposed consecutively for each non-compliance until the time the relevant data is provided as requested.

## Article 30

The owner of the aircraft or the operator of the aircraft violating Article 9 by not notifying the ASC within the specified time of the aviation occurrence without reasonable grounds shall be subject to an administrative fine from NTD 500,000 to NTD 2.5 millions.

## Article 31

A person who participates in the investigation or his/her supervisors violating Article 21 by disclosing publicly any information related to the investigation shall be subject to an administrative fine from NTD 60,000 to NTD 300,000.

The employer of the person who participates in the investigation violating Article 21 by disclosing publicly any information related to the investigation shall be subject to an administrative fine from NTD 600,000 to NTD 3 millions.

## Article 32

The interviewee or his/her supervisor violating Article 18 by evading, refusing, or obstructing interviews, or by providing untruthful representation inconsistent with the facts shall be subject to an administrative fine from NTD 400,000 to NTD 2 millions. Such fine may be imposed consecutively for each non-compliance.

The employer of the interviewee violating Article 18 by obstructing the interview shall be subject to an administrative fine from NTD 400,000 to NTD 2 millions.

## Article 33

A person who fails to pay the administrative fine imposed under this Act within the specified

time shall be subject to the execution proceedings.

## **Chapter 5 Supplemental Provisions**

### **Article 34**

In the event that any person upon whom the administrative fine is imposed by the ASC has objections thereto, he or she shall directly appeal to the administrative proceedings.

### **Article 35**

The members of the ASC Investigation Task Force may refuse to state their personal opinions when appearing in court proceedings related to the aviation occurrence investigation.

### **Article 36**

The ASC shall enact the operation and handling regulations and procedures governing the notification, occurrence identification, occurrence site handling, personnel interviews, investigation, and release of investigation report as mentioned by this Act.

### **Article 37**

When any regulated matter under this Act falls with the competence and jurisdiction of the prosecuting authorities, the ASC shall coordinate with such authorities in conducting the investigation.

When the execution by the ASC of the powers and duties specified by this Act will affect the powers and duties of other authorities and/or organizations, the ASC shall establish coordination procedures and mechanism with the authorities and/or organizations concerned.

### **Article 38**

This Act shall become effective on the date of promulgation.