

## **AAIA Circular 04/2021**

# **INVESTIGATION REPORTS AND SAFETY RECOMMENDATIONS**

## **1 Introduction**

- 1.1 When the Air Accident Investigation Authority (AAIA) conducts an investigation to an aircraft accident or a serious incident, AAIA will publish the progress and result of the investigation, including any safety recommendation, via the release of a Preliminary Report and a Final Report, in accordance with the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (CAP. 448B) and Annex 13 to the Convention on International Civil Aviation. These reports, along with any safety recommendation, will be sent to relevant persons, States and organisations. AAIA will also send an Accident/Incident Data Report (ADREP) to the International Civil Aviation Organization (ICAO) to fulfil ICAO's reporting requirements.
- 1.2 When AAIA participates in an investigation to an aircraft accident or a serious incident and receives from the State which conducts the investigation any safety recommendation on the civil aviation of Hong Kong, AAIA will respond to such safety recommendation accordingly.
- 1.3 The purpose of this Circular is to publish relevant AAIA policies and procedures.

## **2 Preliminary Report**

### **2.1 Accidents to aircraft over 2 250 kg**

When AAIA conducts an investigation into an aircraft accident or a serious incident involving an aircraft of a maximum mass of over 2 250 kg, AAIA will send the Preliminary Report to:

- (i) the State of Registry or the State of Occurrence, as appropriate;
- (ii) the State of the Operator;
- (iii) the State of Design;

- (iv) the State of Manufacture;
- (v) where applicable, any State that provided relevant information, significant facilities or experts; and
- (vi) ICAO.<sup>1</sup>

## 2.2 Accidents to aircraft of 2 250 kg or less

When AAIA conducts an investigation into an aircraft accident or a serious incident involving an aircraft not covered by paragraph 2.1 above and when airworthiness or matters considered to be of interest to other States are involved, AAIA will forward the Preliminary Report to:

- (i) the State of Registry or the State of Occurrence, as appropriate;
- (ii) the State of the Operator;
- (iii) the State of Design;
- (iv) the State of Manufacture; and
- (v) where applicable any State that provided relevant information, significant facilities; and/or
- (vi) experts.

2.3 AAIA will send the Preliminary Report by facsimile, e-mail, or airmail within 30 days of the date of the accident unless the ADREP has been sent by that time. When matters directly affecting safety are involved, AAIA will send the Preliminary Report as soon as the information is available and by the most suitable and quickest means available.

## 3 Draft Final Report

### 3.1 Draft Final Report – Consultation

3.1.1 When an investigation into an aircraft accident or a serious incident is completed, the Inspector-in-charge will, in accordance with Regulation 11 – Notice of Report

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<sup>1</sup> See AAIA Circular 02/2021 – Inspectors and Persons Participating in an Investigation under CAP. 448B  
[https://www.tlb.gov.hk/aaia/doc/AAIA\\_Circular\\_02-2021\\_-\\_Inspectors\\_and\\_Persons\\_Participating\\_\(Final\).pdf](https://www.tlb.gov.hk/aaia/doc/AAIA_Circular_02-2021_-_Inspectors_and_Persons_Participating_(Final).pdf)

and Representation – of CAP. 448B, send a copy of the draft Final Report to the operator and commander of the aircraft involved in the accident and any person whose reputation is likely to be adversely affected by the report, and the following States that have participated in the investigation, inviting their significant and substantiated comments on the report as soon as possible :

- (i) the State that instituted the investigation;
- (ii) the State of Registry;
- (iii) the State of the Operator;
- (iv) the State of Design;
- (v) the State of Manufacture; and
- (vi) those States which provided relevant information, significant facilities, or experts who participated in the investigation.

3.1.2 Any comment shall be served on AAIA within a 28-day period from the date of the transmittal letter unless AAIA agrees to extend such period. Justification for extension shall be provided for consideration by AAIA and if agreeable, the consultation period may be extended up to 60 days.

3.1.3 When sending the draft Final Report to recipient parties or States, AAIA will consider using the most suitable and quickest means available, such as facsimile, e-mail, courier service or express mail.

3.1.4 Upon receipt of comments from the above consultation process, AAIA will either amend the draft Final Report to include the substance of the comments received or, if desired by the parties or State concerned that provided comments, append the comments to the Final Report. If AAIA receives no comments from the above consultation process, AAIA will issue the Final Report in accordance with the provisions of CAP. 448B and paragraph 4 below.

Note: Comments to be appended to the Final Report are restricted to non-editorial-specific technical aspects of the Final Report upon which no agreement could be reached.

3.1.5 AAIA will send the draft Final Report to the operator through the State of the Operator, as applicable, to enable the operator to submit comments on the draft

Final Report.

- 3.1.6 AAIA will also send, through the State of Design and the State of Manufacture, a copy of the draft Final Report to the organisations responsible for the type design and the final assembly of the aircraft to enable them to submit comments on the draft Final Report.

### 3.2 Release of information — Consent

Upon receipt of the draft Final Report, no one shall circulate, publish or give access to a draft report or any part thereof, or any documents obtained during an investigation of an accident or serious incident, without the express consent of the Chief Inspector, unless such reports or documents have already been published or released by AAIA.

## 4 Final Report

- 4.1 Subsequent to the process described under paragraph 3.1.4 above, the Inspector-in-charge will, in accordance with CAP. 448B Regulation 12 – Notice of review, issue a Final Report to persons who have been served with a draft Final Report under 3.1.1. Within a 21-day period from the date of the transmittal letter unless AAIA agrees to extend such period, these persons may serve on the Chief Inspector written notice if they wish those findings and conclusions in the report from which it appears that their reputation or, as the case may be, the reputation of the person on whose behalf representations had been made, is likely to be adversely affected, to be reviewed by a board of review. Attention is drawn to the requirements stipulated under Regulations 12(2) to (4).

Note: **Appendix 1** illustrates of the aforementioned statutory process.

- 4.2 The Final Report of the investigation of an accident or a serious incident conducted by AAIA will be sent, as it is endorsed to be published in accordance with CAP. 448B Regulation 15 – Publication of reports, to the following States, as applicable, with a minimum of delay:

- (i) the State of Registry;
- (ii) the State of the Operator;
- (iii) the State of Design;

- (iv) the State of Manufacture;
- (v) any State that participated in the investigation;
- (vi) any State having suffered fatalities or serious injuries to its citizens;
- (vii) any State that provided relevant information, significant facilities or experts;  
and
- (viii) ICAO (for accidents or serious incidents involving an aircraft of a maximum mass of over 5 700 kg).

4.3 In the interest of accident and incident prevention and in accordance with the provisions of CAP. 448B, AAIA will release the Final Report as soon as possible, and, preferably within 12 months of the date of the occurrence. If the report cannot be released within 12 months, AAIA will release an interim report on each anniversary of the occurrence, detailing the progress of the investigation, established factual information, and any safety issues raised.

4.4 Final Reports are made publicly available in the interest of accident and incident prevention. The use of portions of the Final Report, in particular the analysis, conclusions and safety recommendations, for purposes other than the prevention of accidents and incidents is against the purpose of accident investigation as stated in ICAO Annex 13 and CAP. 448B Regulation 4 – Objective of investigation.

4.5 AAIA adopts the recommendation given in ICAO Annex 13 Appendix 2 paragraph 6 and will take all necessary measures, without prejudice to other applicable Laws of Hong Kong, to limit the use of the Final Report for purposes other than the prevention of accidents and incidents.

## **5 Safety recommendations**

### **5.1 Safety Recommendation raised by AAIA**

5.1.1 At any stage of the investigation of an accident or a serious incident, AAIA will recommend in a dated transmittal correspondence to the appropriate authorities, including those in other States, any preventive action that AAIA considers necessary to be taken promptly to enhance aviation safety.

5.1.2 AAIA will address, when appropriate, any safety recommendations arising out of its investigations in a dated transmittal correspondence to the accident investigation

authorities of other States concerned and, when ICAO documents are involved, to ICAO.

Note: When Final Reports contain safety recommendations addressed to ICAO, because ICAO documents are involved, these reports will be accompanied by a letter outlining the specific action proposed.

5.1.3 AAIA issuing a safety recommendation of global concern (SRGC)<sup>2</sup> will inform ICAO of the issuance of that recommendation and its responses in dated transmittal correspondence, even when the SRGC is not addressed to ICAO.

Note: SRGC and responses are recorded in an ICAO central database that is made publicly available.

5.1.4 In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies. If safety recommendations are addressed to an organisation in another State, they shall also be transmitted to that State's accident investigation authority.

5.1.5 AAIA will record and assess the safety recommendation responses in accordance with applicable ICAO guidance.<sup>3</sup>

## 5.2 Safety Recommendation received by AAIA

5.2.1 When AAIA receives safety recommendations, it will inform the proposing State, within ninety days of the date of the transmittal correspondence, of the preventive action taken or under consideration, or the reasons why no action will be taken.

5.2.2 AAIA will monitor the progress of the action taken in response to the safety recommendations received.

## 6 Accident/Incident Data Report (ADREP)

### 6.1 Accidents to aircraft over 2 250 kg

When the aircraft involved in an accident is of a maximum mass of over 2 250kg, AAIA will send, as soon as practicable after the investigation, the ADREP to ICAO.

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<sup>2</sup> A safety recommendation regarding a systemic deficiency having a probability of recurrence, with significant consequences at a global level, and requiring timely action to improve safety.

<sup>3</sup> ICAO Doc 9756 – Manual of Aircraft Accident and Incident Investigation Part IV – Reporting.

When requested, AAIA will also provide other States with pertinent information additional to that made available in the ADREP.

## 6.2 Serious incidents to aircraft over 5 700 kg

When AAIA conducts an investigation into a serious incident to an aircraft of a maximum mass of over 5 700 kg, AAIA will send, as soon as practicable after the investigation, the ADREP to ICAO.

**K. C. MAN**  
**Chief Inspector**



## Appendix 1 to AAIA Circular 04/2021

Pursuant to CAP. 448B Regulation 10A(1), on completion of an investigation, an Inspector-in-Charge (IIC) must make an investigation report to be submitted by the Chief Inspector (CI) to the Chief Executive (CE). Prior to submission to the CE, Regulation 11 prescribes a consultation process, which AAIA relies on to fulfil similar ICAO Annex 13 requirements.

### Regulation 11 Notice of report and representations

IIC to serve a notice which must include:

(a) particulars of any proposed analysis of facts that may affect the person on whom, or in respect of whom, the notice is served; and

(b) any conclusions as to the cases of the accident or incident that may affect that person

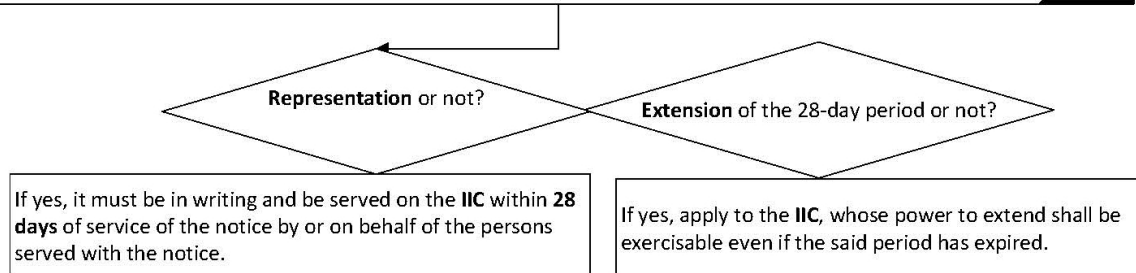
[Note: it is AAIA's practice to issue the Draft Final Report in full.]

#### Whom to be consulted

(1) the operator and pilot in command; and

(2) any person whose reputation is, in the IIC's opinion, likely to be adversely affected by the report

[Note: other recipients specified by ICAO Annex 13 are consulted in accordance with (2), namely accident investigation authorities of the States of Operator/Registry/Design/Manufacture, aircraft/engine manufacturer, any State that participated in the investigation; any State having suffered fatalities or serious injuries to its citizens; and any State that provided relevant information, significant facilities or experts.]



#### What will happen to the Comments?

Regulation 11(1)(b) requires that IIC must consider any representations made.

According to ICAO, the State conducting the investigation receives comments shall either amend the draft Final Report to include the substance of the comments received or, if desired by the State that provided the comments, append the comments to the Final Report. Comments to be appended to the Final Report are restricted to non-editorial, specific technical aspects of the Final Report, upon which no agreement could be reached.

IIC will document his/her deliberation and proceed to produce a Final Report for the CE.

### Regulation 12 Notice of review

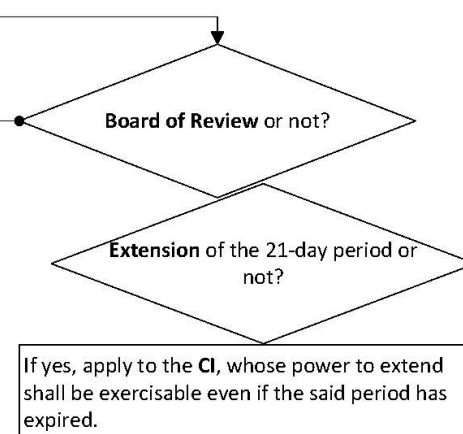
Any person who has been served with the Regulation 11 Notice, will be served the same version of Final Report that the IIC intends to submit to the CE.

If yes, you may service on the CI written notice within **21 days** you are served with the Final Report that you wish those **findings and conclusion from which it appears that your reputation is likely to be adversely affected, to be reviewed by a board of review.**

The notice of review shall **specify the findings and conclusions that it is considered should be reviewed**, and shall **state concisely the grounds on which the findings and conclusions are challenged and there shall be appended to the notice a copy of any representations made under Regulation 11(3).**

A copy of the notice of review, together with a copy of any representations made under Regulation 11(3) shall:

- **at the same time as the notice of review is served on the CI, be served on the Secretary of Justice**, and you shall then or as soon as possible inform the Secretary for Justice whether or not you propose to be represented at the hearing of the review and of the name and address of the solicitor, if any, acting for you, or of any other person who will be representing you at the review; **AND**
- **all other persons on whom the IIC has served a notice under Regulation 11.** For this purpose, you may require the IIC to furnish you with the names and addresses of those persons.



Meanwhile, AAIA prepares an admin package (incl. press release, summary of events) for THB's onward submission to the CE once the Regulation 12 process is complete.