



## *Notarial Translation*

**The Republic of the Union of Myanmar**  
**The Ministry of Transport and Communications**



## **The Myanmar Aircraft Accident and Incident Investigation Rules**

(12<sup>th</sup> December 2018)

***AUTHENTICATED, True and Correct English Translation.***



Registered ..... 396 / 2019

*U Kyaw Sein*  
U Kyaw Sein [B.A (Law), LL.B]  
Notary Public & Supreme Court Advocate (3605)  
No. 333, Room(3), Bo Aung Kyaw Road,  
Kyauktada Township, Yangon.  
Yangon Region

23 AUG 2019

## The Myanmar Aircraft Accident and Incident Investigation Rules

### CONTENTS

No.	Particulars	Page
1.	CHAPTER I - Title, Objective, Application and Definition .....	3
2.	CHAPTER II - Formation of the Accident Investigation Authority, and Functions and Duties thereof .....	10
3.	CHAPTER III - Appointments, Functions and Powers of the Head of Division and Investigators .....	12
4.	CHAPTER IV - Notification .....	15
5.	CHAPTER V - Investigation .....	15
6.	CHAPTER VI - Reporting and Final Report .....	21
7.	CHAPTER VII - General .....	25
8.	SCHEDULE I - Investigation of Accidents and Incidents Contents of the Initial Notification .....	27
9.	SCHEDULE II - PENALTIES .....	29

The Government of the Republic of the Union of Myanmar

The Ministry of Transport and Communications

Notification No. 242 /2018

*Nay Pyi Taw, 5<sup>th</sup> Waxing of Nattaw, 1380 M.E.*

(12<sup>th</sup> December 2018)

## PREAMBLE

The Ministry of Transport and Communications, in exercise of the powers conferred under Sub-section (b) of Section 5 A of the Myanmar Aircraft Act, 1934 as amended, with the approval of the Union Government, hereby issues these Rules relating to the Investigation of Aircraft Accident and Incident:

## CHAPTER I

### Title, Objective, Application and Definition

#### Title

1. These Rules shall be called the **Myanmar Aircraft Accident and Incident Investigation Rules**.

#### Objective

2. The sole objective of the investigation of an accident and incident shall be the prevention of accidents and incidents; it is not the purpose of this activity to apportion blame or liability.

#### Application

3. These Rules shall apply in respect of aircraft accidents and incidents:

(a) in or over Myanmar;

- (b) when Myanmar is the State of Registry:
  - (1) the location of the accident or the serious incident cannot definitely be established as being in the territory of any other State; or
  - (2) the accident or the serious incident has occurred in the territory of a non-contracting State which does not intend to conduct an investigation.

### Definitions

4. The expressions contained in these Rules shall have the same meanings as are assigned to them in Myanmar Aircraft Act, 1934 as amended. In addition, the following expressions shall have the meanings given hereunder :

- (a) **Act** means the Myanmar Aircraft Act, 1934.
- (b) **Accident** means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which;
  - (1) a person is fatally or seriously injured as a result of ;
    - (aa) being in the aircraft, or
    - (bb) direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
    - (cc) direct exposure to jet blast,
    - (dd) except when the injuries are from natural causes, self - inflicted or inflicted by other persons, or when the



injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

- (2) the aircraft sustains damage or structural failure which;
  - (aa) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
  - (bb) would normally require major repair or replacement of the affected component, except for engine failure or damage, when the damage is limited to a single engine (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or
- (3) the aircraft is missing or is completely inaccessible.

**Explanation 1.** For statistical uniformity only, an injury resulting in death within thirty days of the date of the accident is classified, by ICAO, as a fatal injury.

**Explanation 2.** An aircraft is considered to be missing when the official search has been terminated and the wreckage has not been located.

**Explanation 3.** The type of unmanned aircraft system to be investigated is addressed in 5.1 of ICAO Annex 13.

**Explanation 4.** Guidance for the determination of aircraft damage can be found in Attachment E of ICAO Annex 13.

- (c) **Accident Investigation Authority** means the Aircraft Accident Investigation Bureau of Myanmar (AAIB) designated by the Ministry as responsible for aircraft accident and incident investigations.

- (d) **Accredited representative** means a person designated by a State, on the basis of his qualifications, for the purpose of participating in an investigation conducted by another State. Where the State has established an accident investigation authority, the designated accredited representative would normally be from that authority.
- (e) **Adviser** means a person appointed by a State, on the basis of his or her qualifications, for the purpose of assisting its accredited representative in an investigation.
- (f) **Aircraft** means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface.
- (g) **Annex 13** means the annex to the convention on International Civil Aviation (Chicago Convention) that contains the International Standards and Recommended Practices related to Aircraft Accident and Incident Investigation.
- (h) **Causes** means actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident. The identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability.
- (i) **Collision** means an impact between aircraft, or between an aircraft and another object.
- (j) **Contributing factors** means actions, omissions, events, conditions, or a combination thereof, which, if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident. The identification of contributing factors does not imply the assignment of fault or the determination of administrative, civil or criminal liability.
- (k) **Dangerous goods** means articles or substances which are capable of posing a risk to health, safety, property or the environment. More information related to dangerous goods can be found in ICAO *annex 18, the Safety Transport of Dangerous Goods* by

*Air, and in ICAO Doc. 9284, Technical Instructions for the safe Transport of Dangerous Goods by Air.*

- (l) **Document** includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic, film, sound recording, video tape, electronic files and data and any copy thereof.
- (m) **Flight recorder** means any type of recorder installed in the aircraft for the purpose of complementing accident or incident investigation.

**Explanation:** See Annex 6, Parts I, and for specifications relating to flight recorders.

- (n) **Head of Division** means a commissioner or other competent government official who is appointed by the Ministry to be responsible for the accident and incident investigations within the meaning of these rules.
- (o) **ICAO** means the International Civil Aviation Organization.
- (p) **Incident** means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation.
- (q) **Investigation** means a process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/ or contributing factors and, when appropriate, the making of safety recommendations.
- (r) **Investigator** means a person delegated by the Accident Investigation Authority to conduct its investigations.
- (s) **Investigator-in-charge** means a person charged, on the basis of his or her qualifications, with the responsibility for the organization, conduct and control of an investigation.
- (t) **Maximum Mass** means maximum certificated take-off mass.
- (u) **Ministry** means the Ministry of Transport and Communications.

- (v) **Observer** means a representative of a concerned department of a State who is authorized by the Accident Investigation Authority to attend an investigation as an observer, or an Authority investigator authorized to attend an investigation being conducted by another concerned department.
- (w) **Occurrence** means any accident or incident associated with the operation of an aircraft.
- (x) **Operator** means a person, organization or enterprise engaged in or offering to engage in an aircraft operation.
- (y) **Participant** means a person authorized by the Accident Investigation Authority to participate in an investigation being conducted by the Accident Investigation Authority because in the opinion of the Accident Investigation Authority that person has the expertise to contribute to achieving the Accident Investigation Authority's mandate.
- (z) **Preliminary Report** means the communication used for the prompt dissemination data obtained during the early stages of the investigation.
- (aa) **Safety recommendation** means a proposal of an Accident Investigation Authority based on information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident. In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies.
- (bb) **Serious incident** means an incident involving circumstances indicating that there was a high probability of an accident and associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to



move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down.

**Explanation 1.** The difference between an accident and a serious incident lies only in the result.

**Explanation 2.** Examples of serious incidents can be found in Attachment C of Annex 13.

(cc) **Serious injury** means an injury which is sustained by a person in an accident and which:

- (1) requires hospitalization for more than 48 hours, commencing within seven days from the date of the injury; or
- (2) results in a fracture of any bone (except a simple fracture of fingers, toes or the nose); or
- (3) involves lacerations which cause severe hemorrhage, nerve, muscle or tendon damage; or
- (4) involves injury to any internal organ; or
- (5) involves second or third degree burns or any burns affecting more than 5 percent of the body surface; or
- (6) involves verified exposure to infectious substances or injurious radiations.

(dd) **Contracting State** means a Contracting State of the International Civil Aviation Organization, including Myanmar.

(ee) **State of Design** means the Contracting State having jurisdiction over the organization responsible for the type design.

(ff) **State of Manufacture** means the State having jurisdiction over the organization responsible for the final assembly of the aircraft, engine or propeller.

(gg) **State of Occurrence** means the State in the territory of which an accident or incident occurs.

- (hh) **State of the Operator** means the State in which the operator's principal place of business is located or, if there is no such place of business, the operator's permanent residence.
- (ii) **State of Registry** means the State on whose register the aircraft is entered.

## CHAPTER II

### Formation of the Aircraft Accident Investigation Bureau, and Functions and Duties thereof

#### Formation of the Aircraft Accident Investigation Bureau

5. There shall be established an independent Department of the Government by the Ministry, known as Aircraft Accident Investigation Bureau of Myanmar or (AAIB) comprising such number of public officers who are Investigators and such other public officers as are necessary for the proper functions of the Aircraft Accident Investigation Bureau of Myanmar (AAIB). The Aircraft Accident Investigation Bureau is also known as the Accident Investigation Authority.

#### Functions and Duties of the Aircraft Accident Investigation Bureau

6. The Aircraft Accident Investigation Bureau:
- (a) shall conduct investigations separate from investigations conducted for the purposes of establishing blame or civil or criminal liability;
  - (b) shall have independence in the conduct of the investigation and have unrestricted authority over its conduct, consistent with the provisions of Annex 13;
  - (c) shall carry out investigations into any accident or serious incident:
    - (1) that occurs in Myanmar;
    - (2) that occurs outside Myanmar, that involves a Myanmar registered aircraft or an aircraft operated by a Myanmar operator and if either of the following conditions:

- (aa) the occurrence is in any non-Contracting State which does not intend to carry out an investigation of the accident or serious incident in accordance with Annex 13;
  - (bb) the investigation has been delegated to Myanmar by another State by mutual arrangement and consent; or
- (3) that occurs in a location which cannot be definitely established as being in the territory of any State and that involves a Myanmar registered aircraft or an aircraft operated by a Myanmar operator.
- (d) shall carry out such other investigations into incidents (other than serious incidents):
  - (1) that occurs in Myanmar from which air safety lessons may be derived; or
  - (2) that occurs outside Myanmar, that involves a Myanmar registered aircraft or an aircraft operated by a Myanmar operator, and from which air safety lessons may be derived; and
  - (3) that may discharge such other function which is incidental or conducive to the attainment or furtherance of the purposes of this Chapter.

7. In exercising any power under these rules, the Accident Investigation Authority and every Investigator shall ensure that the power conferred on the Accident Investigation Authority and an Investigator shall be exercised in a manner that is consistent with Myanmar's obligations under the Chicago Convention.

8. The Accident Investigation Authority shall, as soon as practicable after an investigation has been completed, publish, by electronic or other means, a report in relation to the investigation.

9. The Accident Investigation Authority shall take all reasonable measures to ensure that the investigation procedures and practices that it follows in relation to accidents and incidents are compatible with the

Myanmar's obligations under the Convention on International Civil Aviation, and the ICAO Standards and Recommended Practices contained in Annex 13.

### **CHAPTER III**

#### **Appointments, Functions and Powers of the Head of Division and Investigators**

10. The Ministry shall:

- (a) appoint the Head of Division who shall be responsible for aircraft accident and incident investigations and
- (b) ensure that sufficient funds are available to enable the Aircraft Accident Investigation Bureau to properly investigate accidents and incidents that fall within the Aircraft Accident Investigation Bureau's area of responsibility.

11. The Ministry shall appoint as the Investigators any individual (whether or not a public officer) who has suitable qualifications and experience to properly exercise the powers of the Investigators under these rules.

#### **Functions and Duties of the Head of Division**

12. The Head of Division has the authority to:

- (a) establish policies and procedures to be followed in the conduct of investigation;
- (b) institute investigation into the circumstances of accident and incidents;
- (c) delegate the investigation, in whole or in part, to another State or a regional accident investigation organization, when deemed to be appropriate;
- (d) designate an Investigator-in-charge for each investigation;
- (e) delegate the powers of investigation to the members of the investigation team, and provide each member with a certificate of appointment; and
- (f) release a Final Report on its investigations.



### **Functions of the Investigator-in-Charge**

13. The Investigator-in-charge has exclusive authority to direct the conduct of an investigation under this Chapter on behalf of the Head of Division.

14. The Investigator-in-charge shall:

- (a) report to the Head of Division on the investigation, including proposing findings as to causes and contributing factors, and safety recommendations related to investigations conducted by the Aircraft Accident Investigation Bureau; and
- (b) be responsible for appointing observers and participants required for the investigation.

### **Power of Investigator**

15. For the purpose for such investigation an investigator of accidents or incidents shall have power:

- (a) to call before him and examine all persons as the investigator thinks fit, and to require such persons to answer any questions or furnish any information;
- (b) to require the protection and preservation of:
  - (1) the aircraft accident or incident site(s);
  - (2) the aircraft and any parts thereof, and;
  - (3) all records and documents associated with the occurrence;
- (c) to enter and search any place where an investigator believes on reasonable grounds that there is anything relevant to the conduct of an investigation of an accident or incident, and to seize anything that is found in the course of that search;
- (d) to prohibit or limit access to the area immediately surrounding the place at which anything involved or likely to have been involved in an accident or incident is located;
- (e) to cause such tests, including tests to destruction, of anything that was seized for the purposes of the investigation;

**Explanation:** It is practical and safe to do so, and does not unreasonably impede the progress of the investigation, the investigator shall take all reasonable measures to invite the owner and any person.

- (f) to require the provision and to make copies of any documents that the investigation may consider relevant to the accident or incident;
- (g) to retain any such documents until the completion of the investigation;
- (h) to take statements from all such persons as the investigator thinks fit and to require any such person to make and sign the statements;
- (i) to require a person(s) who was (were) directly or indirectly involved in the operation of an aircraft to submit to a medical examination;
- (j) to require a physician or other practitioner to provide medical information concerning a patient who the investigator believes on reasonable grounds;
- (k) to cause such an autopsy or medical examination to be performed on a body of a deceased person where the investigator believes on reasonable grounds;
- (l) to require the person having custody of the body of the deceased person or other human remains to permit the performance of that autopsy or that medical examination; and
- (m) to call on the services of local authorities or other authorized person to ensure protection of the accident site, including the aircraft and its contents, until such time as the Aircraft Accident Investigation Bureau is able to directly take over custody and security of the aircraft and its contents.

## **CHAPTER IV**

### **Notification**

#### **Notification of Accidents and Incidents**

16. (a) When an aircraft accident or incident takes place, the owner, operator, pilot-in-command and any crew member of the aircraft, the operator of the airport, and any air traffic controller having knowledge of an accident or incident shall notify to the Aircraft Accident Investigation Bureau and provides as much information as is possible as soon as possible and by the quickest means available.
- (b) The notification to the Aircraft Accident Investigation Bureau shall be in plain language under sub-rule (a) and contains as much of the information specified in Schedule I to these Rules as is readily available; but, the dispatch of the notification shall not be delayed due to the lack of complete information.

## **CHAPTER V**

### **Investigation**

#### **Decision as to the Types of Investigation**

17. (a) The Head of Division shall establish policies respecting the types of aircraft accidents or incidents to be investigated .
- (b) The following criteria shall apply when the Aircraft Accident Investigation Bureau makes its decision the types of its investigations:
- (1) all accident shall be investigated;
  - (2) all serious incidents involving aircraft of a maximum mass of over 2250 kg shall be investigated;
  - (3) all serious incidents should be investigated; and

- (4) other types of incidents may be investigated, if necessary.

18. Any investigation conducted under the provision of this Chapter shall have unrestricted access to all evidential material without delay and shall not be impeded by administrative or judicial investigations of proceedings.

### **Obstruction of Proceedings**

19. (a) A person shall not obstruct or impede an investigator of accidents or incidents or an assessor or any person acting in the exercise of any powers or duties under the rules in this Chapter;
- (b) A person shall not without reasonable excuse fail to comply with any summons or requisition of an Investigator holding an investigation under this Chapter.

### **Investigation-Jurisdictions**

20. Notwithstanding any other Act, no department may commence an investigation under this Chapter if the accident or incident has been investigated, is being investigated, or is going to be investigated by the Aircraft Accident Investigation Bureau. Provided that rule 20 of this Chapter shall not prevent :

- (a) a department of Myanmar from commencing an investigation into or continuing to investigate an aircraft accident or incident for any purpose other than that of the Part;
- (b) any law enforcement department in Myanmar from investigating an aircraft accident or incident for any purpose for which it is empowered to conduct investigations.
21. For any investigation conducted under the provisions of this Chapter, the Aircraft Accident Investigation Bureau shall:
- (a) have unhampered access to and unrestricted control over the scene of the accident or incident, including the wreckage and any material relevant to the investigation;



- (b) have unhampered access to and control of the wreckage and all relevant material, including flight recorders and air traffic services recordings and records;
- (c) have unrestricted control over wreckage and parts to ensure that detailed examinations can be made without delay;
- (d) take all reasonable measures to protect the evidence and to maintain safe custody of the aircraft and its contents for such a period as may be necessary for the purposes of the investigation;
- (e) relinquish control of the accident or incident site(s) and release custody of the aircraft, its contents or any parts thereof as soon as they are no longer required by the investigation; and
- (f) take statements from all such persons as the investigator thinks fit and to require any such person to make and sign a declaration of the truth of the statements made by the person.

### **Foreign Investigations**

22. Where the Aircraft Accident Investigation Bureau has been notified of an aircraft accident or serious incident that occurred outside the territory of Myanmar involving a Myanmar aircraft, an aircraft operated by a Myanmar operator, or an aircraft designed or manufactured in Myanmar, the Aircraft Accident Investigation Bureau shall:

- (a) acknowledge receipt of the notification.
- (b) provide the notifying State with the following information with the least possible delay;
  - (1) any relevant information regarding the aircraft and flight crew involved in the accident or serious incident; and
  - (2) if Myanmar is the State of the Operator, details of any dangerous goods on board the aircraft.
- (c) inform the notifying State as to:
  - (1) whether the Aircraft Accident Investigation Bureau intends to appoint or has appointed an accredited representative; and

- (2) if such accredited representative will be or has been appointed and will be travelling to the State in which the investigation is being carried out, the contact details and the expected date of arrival of the accredited representative in such State.
- (d) appoint an accredited representative, if requested to do so by the State conducting an investigation into an accident, or a serious incident involving an aircraft of a maximum mass of over 2250 kg.

### **Observers / Participants / Accredited Representatives**

23. Subject to any conditions that the Aircraft Accident Investigation Bureau may impose, a person may attend as an observer at an investigation by the Aircraft Accident Investigation Bureau if the person is designated as an observer by an entity and / or Government Department concerned having a direct interest in the subject matter of the investigation.

24. Subject to any conditions that the Aircraft Accident Investigation Bureau may impose, a person may attend as a participant in an investigation carried out by the Aircraft Accident Investigation Bureau, if in the opinion of the Aircraft Accident Investigation Bureau that person has the expertise to contribute to achieving the Aircraft Accident Investigation Bureau's mandate.

25. Subject to the Standards and Recommended Practices contained in Annex 13, accredited representatives and advisers appointed by States may participate in an investigation conducted by the Aircraft Accident Investigation Bureau.

26. Subject to the Standards and Recommended Practices contained in Annex 13, a State which has a special interest in an accident by virtue of fatalities or serious injuries to its citizens is entitled to appoint an expert.

27. The Aircraft Accident Investigation Bureau may engage on a temporary basis the services of persons having technical or specialized knowledge to assist the Aircraft Accident Investigation Bureau in its investigations.

28. The Aircraft Accident Investigation Bureau may remove or ask to have removed an observer or a participant from an investigation:

- (a) if that person contravenes a condition imposed by the Aircraft Accident Investigation Bureau on the person's presence, or
- (b) if, in the Aircraft Accident Investigation Bureau 's opinion, the person has a conflict of interest that impedes the conduct of the investigation.

29. Where a person referred to in Rules 23, 24 and 27 attends as an observer or a participant at the investigation of an occurrence conducted by the Aircraft Accident Investigation Bureau the person may, subject to the conditions and limitations imposed by the Aircraft Accident Investigation Bureau and under the supervision of the investigator:

- (a) attend at the occurrence site(s);
- (b) examine the aircraft and its component parts and contents involved in the occurrence;
- (c) unless otherwise prohibited by law, examine any document as defined in this Chapter, and any other relevant evidence, relating to:
  - (1) the aviation activity during which the occurrence took place;
  - (2) the crew members involved in the occurrence; and
  - (3) the aircraft, its component parts and contents.
- (d) attend laboratory tests or analyses.

30. Where a person referred to in Rules 25 and 26 attends as an investigator of an accident or incident conducted by the Aircraft Accident Investigation Bureau, that person, unless otherwise prohibited by law, shall be granted the right and entitlements expressed in the Standards and Recommended Practices set out in Annex 13.

31. The rights and entitlements granted to an observer or participant shall not, unless otherwise authorized by the Appointed Head, include attendance at an interview of a witness during an investigation.

32. Pursuant to Sub-rule (e) of Rule 15, where the owner of the component being tested, and any person who appears on reasonable grounds to be entitled to it are invited to observe such tests, these persons may:

- (a) record or cause to be recorded the condition of the component being tested prior to, during and after the test; and
- (b) be represented by a person having technical knowledge and expertise in the subject- matter of the test.

#### **Securing of Accident Sites , etc.**

33. (a) Where an accident or a serious incident occurs in Myanmar:

- (1) no person other than the Head of Division, or an investigator-in -charge of the investigation into that accident or serious incident or an authorized person shall have access to the aircraft involved in the accident or serious incident, the contents of the aircraft or the site of the accident or serious incident; and
- (2) no person shall move or interfere with the aircraft, its contents or the site of the accident or serious incident except under the authority of the Head of Division or the investigator-in-charge of the Aircraft Accident Investigation Bureau.

(b) Sub-rule (a) shall not apply if the conduct was necessary:

- (1) to extricate persons or animals from an accident site;
- (2) to remove any mail, valuable property or dangerous goods from the accident site;
- (3) to prevent destruction of any aircraft, the wreckage of an aircraft or other evidence by fire or other cause;
- (4) to move an aircraft, or the wreckage of an aircraft, to a safe place if the aircraft or wreckage is in water; or
- (5) to prevent any danger or obstruction to the public, air navigation or other transport.



**Explanation:** In this Rule, "authorized person" shall be deemed any person authorized by the Head of Division or the investigator-in-charge either generally or specifically to have access to any aircraft involved in an accident or a serious incident, and includes any police officer or any officer of customs, and in relation to an accident involving a military aircraft belonging to the Myanmar Armed Forces, any person authorized by the Chief of Air Force.

### **Fee of Investigator**

34. When a person other than an officer of Government is appointed to investigate an accident or incident, he may be granted such fee and expenses as may be determined by the Ministry.

### **Evidence of Investigators**

35. The investigators shall not be compellable to appear as a witness in any judicial, administrative or disciplinary proceedings related to apportioning blame or liability.

### **Reopening of Investigations**

36. If new and significant evidence becomes available after the investigation has been closed, the Aircraft Accident Investigation Bureau shall reopen it.

## **CHAPTER VI**

### **Reporting and Final Report**

#### **Reporting of Accidents and Incidents by any person**

37. The owner, operator, pilot-in-command, crew members, operator of an airport, air traffic controller, or any other person having knowledge of an accident or incident shall report the Aircraft Accident Investigation Bureau and provide as much information as soon as possible and by the quickest means available.

38. As Myanmar is the State of Occurrence, after receipt of notification or report, with a minimum of delay and by the most suitable and quickest means available forward a notification to the State of Registry, the State of Operator, the State of Design, the State of Manufacture and aircraft maximum mass over 2250 kg to ICAO.

### **Crew Statements**

39. As soon as possible after the accident or serious incident, each crew member shall forward to the Aircraft Accident Investigation Bureau, a statement setting forth the facts, conditions, and circumstances relating to the accident or serious incident as they appear to the member.

### **Voluntary Reporting**

40. Any person having knowledge of any safety-related event, other than an accident or incident, may make a voluntary report to the Aircraft Accident Investigation Bureau and provide any information that the person believes is relevant.

41. Where a voluntary report is made to the Aircraft Accident Investigation Bureau, no person shall release the identity of the person making the report or any information that could reasonably be expected to reveal that person's identity, unless the person making the report authorize, in writing, its release.

42. A report made to the Aircraft Accident Investigation Bureau under a voluntary reporting system shall not be used against the person who made the report in any disciplinary, civil, administrative and criminal proceedings and a voluntary reporting system is non-punitive.

43. The protection regarding the identity of the person making the voluntary report shall not apply to situations involving unlawful acts, gross negligence or willful infractions by that person.

**Privileged / Protected Information**

44. The Aircraft Accident Investigation Bureau shall not make the following records available for purposes other than accident or incident investigation:

- (a) cockpit voice recording and airborne image recordings and any transcripts from such recordings; and
- (b) records in the custody or control of the Aircraft Accident Investigation Bureau not to be disclosed include :
  - (1) all statements taken from persons by the Aircraft Accident Investigation Bureau in the course of their investigation;
  - (2) all communications between persons having been involved in the operation of the aircraft;
  - (3) medical or private information regarding persons involved in the accident or incident;
  - (4) recordings and transcripts of recordings from air traffic control units;
  - (5) analysis of and opinions about information, including flight recorder information, made by the Aircraft Accident Investigation Bureau and accredited representatives in relation to the accident or incident; and
  - (6) the draft final Report of an accident or incident investigation.

**Investigations of Interim Statement**

45. If the final report on an investigation cannot be made publicly available within twelve months of the aircraft accident or incident, the Aircraft Accident Investigation Bureau shall issue an Investigation Interim Statement on each anniversary of the occurrence detailing the progress of the investigation and any safety issues raised.

46. The Aircraft Accident Investigation Bureau shall provide the Investigation Interim Statement referred to the following:

- (a) any concerned department of Myanmar
- (b) the States having a direct interest in the occurrence, and if appropriate to ICAO; and
- (c) States having suffered fatalities or serious injuries to its citizens.

47. The Aircraft Accident Investigation Bureau shall make the Investigation Interim Statement publicly available.

#### **Draft Final Reports on Investigations by Investigator**

48. Before releasing the Final Report on its investigation, the Aircraft Accident Investigation Bureau shall send a draft Final Report to departments, States, and other organizations involved in the investigation, inviting their significant and substantiated comments.

49. No one shall circulate, publish or give access to a draft final report or any part thereof, or any documents obtained during an investigation of an accident or incident, without the express consent of the Aircraft Accident Investigation Bureau, unless such reports or documents have already been published or released by the Aircraft Accident Investigation Bureau.

#### **Final Reports on Investigations**

50. The Aircraft Accident Investigation Bureau shall send the Final Report on its investigation with a minimum delay to :

- (a) any concerned department in Myanmar;
- (b) States having a direct interest in the accident / incident, and if applicable to ICAO
- (c) States having suffered fatalities or serious injuries to its citizens; and
- (d) any other organizations or persons who, in the opinion of the Aircraft Accident Investigation Bureau, have a direct interest in the investigation;



- (e) In the interest of accident and incident prevention, the Aircraft Accident Investigation Bureau, shall make a Final Report on its investigation publicly available as soon as possible and, if possible, within twelve months.
51. (a) Final reports shall not be used as evidence in any court proceeding or in other proceedings related to apportioning blame or liability.
- (b) No finding, cause or contributing factor determined under this Chapter shall be construed as assigning fault or determining civil or criminal liability.
- (c) No safety recommendation made under this Chapter shall be construed as assigning fault or determining civil or criminal liability.

### **Safety Recommendations**

52. At any stage of the investigation of an accident or incident , the Aircraft Accident Investigation Bureau shall recommend in dated transmittal correspondence to the appropriate authorities, including those in other States any preventive action that it considers necessary to be taken promptly to enhance aviation safety.

53. The Aircraft Accident Investigation Bureau shall address, when appropriate, any safety recommendations arising out of its investigations in a dated transmittal correspondence to the Accident Investigation Authorities of other State(s) concerned and, to ICAO when ICAO documents are involved.

## **CHAPTER VII**

### **General**

#### **Burden of proof**

54. The burden of proof shall be laid on any person who fails or contravenes to comply with any provision provided in these Rules.

### Conflicts of Interest

55. To achieve functional independence of the Aircraft Accident Investigation Bureau, and to ensure the credibility of its investigation, members of the Aircraft Accident Investigation Bureau shall avoid actual and potential conflicts of interest.

56. Whoever contravenes any of the offences contained in Schedule II to these Rules, shall be punished under section 10 of the said Act.

57. The Rules, Order, Directive, Notification and Procedures issued under the Myanmar Aircraft Act may be continued to be applicable in so far as they are not inconsistent with these Rules.

Sd./

(Thant Sin Maung)

Union Minister

The Ministry of Transport and Communications

*AUTHENTICATED*, True and Correct English Translation.

**SCHEDULE I  
(CHAPTER IV)**

**Investigation of Accidents and Incidents  
Contents of the Initial Notification**

1. As specific in Annex 13, the notification shall be in plain language and contain as much of the following information as is readily available, but its dispatch shall not be delayed due to the lack of complete information:

- (a) for accidents the identifying abbreviation ACCID, for serious incidents INCID;
- (b) type, manufacturer, model, serial number, nationality and registration marks of the aircraft;
- (c) names of the owner, operator and hirer, if any, of the aircraft;
- (d) qualification of the pilot-in-command, and nationality of crew and passengers;
- (e) date and time ( Local Time or Coordinated Universal Time – UTC ) of the accident or serious incident;
- (f) last point of departure and point of intended landing of the aircraft, including the date and time of the departure;
- (g) position of the aircraft with reference to some easily defined geographical point and latitude and longitude;
- (h) number of crew and passengers; aboard, killed and seriously injured; others, killed and seriously injured;
- (i) description of the accident or serious incident and the extent of damage to the aircraft so far as is known;
- (j) an indication to what extent the investigation will be conducted or is proposed to be delegated by the State of Occurrence;
- (k) physical characteristics of the accident or serious incident area, as well as an indication of access difficulties or special requirements to reach the site;

- (l) identification of the originating authority and means to contact the investigator-in-charge and the Aircraft Accident Investigation Bureau of the State of Occurrence at any time; and
  - (m) presence and description of dangerous goods on board the aircraft.
2. It may be helpful to provide the location of the accident or incident as well as the elevation and topography of the accident site, if it is known.
  3. It is useful to first provide the number of persons aboard (crew, passengers) and then the injuries they sustained.
  4. A list of addresses of aircraft accident and incident investigation authorities can be found on the ICAO / Accident Investigation Group (AIG) website or in ICAO Doc. 9756, Part I, Chapter 4, Appendix 2.

## SCHEDULE II PENALTIES

(See Rule 56)

Nature of Offences		Relevant Rule or Rules
1	<b>Aircraft accidents and incidents</b> - Failure to notify or submit reports on accidents and incidents	Rule 16 (a),(b)
2	<b>Investigation of accidents or incidents – Obstruction of Proceedings.</b>	Rule 19 (a), (b)
3	<b>Observers/ Participants/ Accredited Representatives</b> - Failure to comply with Rule 28	Rule 28
4	<b>Securing of Accidents Sites, etc.-</b> Access to, or Removal of or interference with aircraft to which an accident or serious incident has occurred	Rule 33 (a)
5	<b>Reporting of Accidents and Incidents</b> - Failure to report to the Aircraft Accident Investigation Bureau	Rule 37
6	<b>Voluntary Reporting</b> - Release the identity of person making voluntary report	Rule 41
7	<b>Protected Information</b> - Disclosure of protected records or information.	Rule 44
8	<b>Draft Investigation Report</b> - No one shall circulate, publish or give access to a draft final report or any part thereof.	Rule 49