

Civil Aviation (Mishap Investigation) Rules, 2024 (1967)

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Civil Aviation (Mishap Investigation) (First
Amendment) Rules, 2057 (2000)

2057/6/5 (Sept. 21, 2000)

The Government of Nepal, having exercised the power conferred by the Civil Aviation Act, 2015 (1959) has enacted the following rules.

Chapter 1

Preliminary

1 Short Title and Commencement: (1) These Rules may be called "Civil Aviation (Mishap Investigation) Rules, 2024 (1967)".

(2) These Rules shall come into force immediately.

2. Definition: Unless the subject or context means otherwise, in these Rules,-

(a) "Particular type of loss" means the loss in which a large repair is to be made in any part or machine of the aircraft or the machine is to be replaced.

(b) "Mishap" means the mishap of aircraft with the following situation as a result of any kind of disorder in the aircraft within the period from a person's or persons' boarding to disembarkation in and from an aircraft with an objective to fly :-

(1) Event of causing any loss in the aircraft to be a particular type of loss,

(2) Event of falling on aircraft, burning or destruction of aircraft by any reason,

- (3) Event of death of a person inside or outside an aircraft or being touched with any object flown in the aircraft or in a situation of clause (1) and (2) above or being seriously injured to be unable to disembark or move from the aircraft or from the place of mishap due to heavy injury.
- (c) "Pilot in Command" means the main person operating the aircraft with his responsibility of flight operation and security during the aviation period.
- (d) "Co-pilot" means another operator of aircraft as a subordinate of the Pilot in Command in the aircraft.
- (e) "Aircraft owner" means a person or organization in whose name the aircraft is registered.
- (f) "Registrar country" means a country in whose registration book the aircraft is registered.
- [±](f1) "Ministry" means the Government of Nepal, Ministry of Culture, Tourism and Civil Aviation.
- (g) [♥]"Director General" means the Director General of the Civil Aviation Authority of Nepal established under the Civil Aviation Authority of Nepal Act, 2053 (1996).
- (h) "Inspector" means the inspector prescribed by the Ministry to submit report by making investigation of the mishap; and in regard to an aircraft registered in other country, this term also denotes a person nominated to investigate the mishap by that country.

[±] Inserted by the First Amendment.

[♥] Amended by the First Amendment.

Chapter 2

To Give Information of Mishap

3. To Give Information of Mishap: (1) Person or persons witnessing the mishap under sub-clause (2) of clause (b) of rule (2) in a place outside from airport area shall immediately give information to the nearest airport or police check post or post office or wireless office or telephone office or [±]Village Development Committee or Municipality or District Administration Office.

(2) The Village Development Committee [•] or Municipality, in the case of obtaining information or message of mishap or knowledge of mishap within own Ward by any mean, shall immediately make inquiry and inform the nearest airport, or police check post or post office or wireless office or telephone office or District Administration Office by the fastest medium.

(3) Upon having knowledge of mishap under sub-rule (1) and (2) or any other way, information should be given by mentioning the place of mishap, time and other details to the best of availability (written in sub-rule (2) of rule 5) to the Police Check Post or wireless office or telephone office or post office or the nearest District Administration Office and so on the District Administration Office and Airport Office shall immediately inform the Director General by the fastest medium.

(4) The Chief Official of Airport or the staff ordering to fly and land the aircraft shall inform the full details of incident occurred within the area of airport to the Chief District Officer and Director General through a fastest medium.

[±] Inserted by the First Amendment.

[•] Amended by the First Amendment.

4. The Pilot or Aircraft Owner shall Inform: (1) In the case of mishap of aircraft within Nepal, the Pilot in Command, Copilot or other pilot (operator) shall immediately forward an information of technical details with the situation of mishap, time and place to the Director General through the fastest medium.

(2) The aircraft owner or his representative shall immediately forward an information to the Director General by mentioning the details written in sub-rule (2) of rule 5 as soon as possible through fastest medium.

(3) The aircraft owner or his representative shall, in spite of occurrence of mishap anywhere outside Nepal, of the aircraft registered in Nepal, inform the residential diplomatic mission of Nepal in the concerned nation if any and the Director General.

5. The Director General Shall Inform: (1) The Director General, after obtaining information of mishap, shall immediately furnish such information to the Government of Nepal. In a situation of an aircraft registered in a foreign country having mishap under sub-clause (2) and (3) of clause (b) of rule 2, the matter should also be immediately informed to the registering country or the diplomatic official of such country in Nepal in the case of our diplomatic relation with such country.

(2) The following details should have been mentioned as far as possible in the information of the Director General:

- (a) Type of aircraft, nationality and registration mark,
- (b) Date, time and spot of mishap of aircraft,
- (c) Name of the pilot in command,
- (d) Name of owner of aircraft, and also of the hirer if it was operated by hiring,

- (e) Name of airport of origin and airport of destination of the aircraft,
- (f) Geographical details of the event spot by mentioning the details to make convenience to find out the mishap spot,
- (g) Number of the persons falling in the mishap or injured ones (name to the best of availability)

6. **To inform Repeatedly:** (1) In a situation of not being obtained the details of mishap at a time under rule 5, the office responsible to inform under sub-rule (2), official or the Director General, shall continue to furnish the information repeatedly to the extent of reception of details once and again.

(2) In a situation of necessity to inform the other foreign country under rule 5, the Government of Nepal shall immediately inform by mentioning also the matter in short regarding the decision of how is the mishap being probed.

7. **To Mention the Details of Mishap:** The informant, while giving information of mishap, shall mention the details under sub-rule (2) of rule 5 as far as possible.

Chapter 3

Preservation of Evidence and Getting Probed the Mishap

8. **Presentation of Evidence of Mishap:** The Director General, immediately upon reception of information of mishap, shall take cooperation of the •Chief District Officer and Police of the District of mishap and make necessary arrangement and management to prevent the ill-fated aircraft from further worsening and damage, forbid the unauthorized persons to enter into the aircraft and mishap-spot, prevent

• Amended by the First Amendment.

the theft, damage or loss of the ill-fated aircraft, the goods contained therein, dead bodies and other items, preserve the evidence of mishap safe and sound and also take photograph of the evidences if necessary for their proper preservation.

Provided that in case of necessary to protect the goods, dead bodies, mail and such other valuable goods containing in the aircraft from arson or other thing, and in case of necessary to withdraw such items from the aircraft, remove or keep them by carrying to other safe place or necessary to remove the aircraft from the mishap spot for the purpose of continuing the air transport or remove the public obstacle and risk, the Director General, to the extent of such removal, may issue an order to that effect.

9. Probe of Mishap and Right to Probe: (1) The ⁺Ministry can probe any mishap by itself or prescribe an inspector for such function.

(2) The Probing Officer under sub-rule (1) shall be entitled to carry on the following matters:-

- (a) To probe by entering into the ill-fated aircraft or mishap spot in any time, and order to keep the aircraft and any part or machine of the aircraft as usual without motion until the function of probe has been completed.
- (b) To test the aircraft or any part of aircraft or material kept in the aircraft, remove, make analytical test, order to keep as usual with safety or order to carry on which is necessary in this regard as per necessity.
- (c) To order to submit the books, documents, certificate and other materials which are realized as

⁺ Amended by the First Amendment.

being related to the mishap and keep by possessing such book, document, certificate or other availed evidence until the completion of function of probe.

- (d) To make presence of a person who is realized as right through a written notice, collect information or statement in regard to the mishap from him, and get signed the person in the statement stating that the statement given by him is true.
- (e) To probe by entering into any place if it is necessary to probe the mishap.

Provided that in case of necessary to enter into one's home to carry on this affair, entry should be made only by furnishing a written information.

- (f) To keep the statement taken earlier by the *Chief District Officer or Police if any as the document of evidence by including it in the case file.

10. Report of Mishap: The official probing the mishap, after properly probing and inquiring on the event, shall prepare a report with the whole details of mishap and the reason of mishap, his opinion with reasoning based on the collected evidence and the suggestions along with the other matters to be done in the future for not occurring such mishap. Since such a report is merely an administrative and technical report prepared on the basis of the mishap-related subjects only; it shall not be applied as an evidence of any civil or criminal case.

11. Recognition of Evidence as Requested by the Registrar
Country: In case the registrar country requests in written form to keep the aircraft, the goods contained therein and evidences safe and sound without loss until the authorized representative of that country makes

* Amended by the First Amendment..

observation, the Director General, to the extent of appropriateness and practicability of doing as per such request, shall carry on as per the request by taking necessary action to that effect.

Provided that notwithstanding anything written above, this rule shall not obstruct to carry on as per the proviso of rule 8 if necessary.

12. **To Release the Aircraft or its Goods:** The Director General, in case it is not necessary for probing the mishap or the function of probing is over, shall, on condition of not causing adverse effect on the matter of rule 8 and 11, release the possession on the aircraft or the goods containing therein or any part or machine of aircraft and deliver or get delivered the same to the aircraft owner or his nominee in the case of aircraft registered in Nepal and to the person duly nominated by the registrar country in the case of the aircraft registered in other country.

Chapter 4

Miscellaneous

13. **Authority of Government of Nepal to Probe:** The Government of Nepal, if it deems necessary to make extensive probe of the mishap prior to or completion of probe of mishap under rule 9, may get probed in special manner.
14. **Mishap Probe Commission:** The Government of Nepal, if it likes to get probed the mishap in an extensive manner, shall constitute a Mishap Probe Commission and the Commission shall consist of at least 3 members among which one will be appointed as the chairperson of the Commission by the Government of Nepal. The Government of Nepal may depute other experts also as advisors to assist the Commission.
15. **Duty of the Mishap Probe Commission:** The Mishap Probe Commission shall have the duty to find out the whole details and causes

of mishap and to submit report by finding out the following particular matters:-

- (a) Time and place of mishap,
- (b) Cause of mishap and by what situation occurred the mishap, and
- (c) Facts along with the suggestions regarding what types of measures might be right to be taken by the official of the civil aviation administration so as to make arrangement of not occurring such mishap in the future with an objective of more security of the passengers, public and the persons assigned in the function of civil aviation.

16. Report of Mishap Probe Commission: The report of Mishap Probe Commission shall be merely an administrative and technical. This report shall not be prepared with an objective relating to any civil or criminal case and it shall not be used and presented as evidence in any action of court.

17. Regarding the Mishap of Aircraft Registered in Other Country: In the case of mishap of aircraft registered in a country other than Nepal, the Government of Nepal may grant permission to the authorized representative and advisor of the registrar country to be present in the probe. In case the registrar country requests in written form the Government of Nepal to make active participation of the said representatives in the function of probe, the Government of Nepal may also grant permission to the representative for active participation.

18. To be Paid Remuneration to the Person Probing the Mishap: In case a person other than the staff of Government of Nepal is assigned in the function of probing the mishap, the Government of Nepal may pay remuneration and other expenditure to such person.

19. Arrangement of Search, Security and allowing to Remove the Debris: (1) The Government of Nepal may grant necessary facility to a

person duly authorized by the registrar country for the function of search of the lost or ill-fated aircraft, security, probe, repair or protection of the damaged goods to enter in the country.

(2) The Government of Nepal may provide the duty facility under the prevailing law of Nepal to temporarily bring aircraft, search tools, parts and goods with exemption of customs or other tax for the purpose of search of ill-fated aircraft, security, probe, repair or removal of debris and to return them after completion of function.

(3) In the case of not taking back any aircraft, tools, parts, goods and ill-fated aircraft or the parts thereof and the goods loaded in the same aircraft within six months of entry in Nepal, they will be subject to customs duty under the prevailing law of Nepal.

Changes: Terms changed by the Civil Aviation (Investigation of Mishap) (First Amendment) Rules, 2057 (2000):

- (a) "Airport" in lieu of "Hawaiadda"
- (b) "District Administration Office" in lieu of "Zonal Commissioner Office"
- (c) "Director General" in lieu of "director".