

SUBPART 4: SCENE OF AN ACCIDENT

Guarding of aircraft involved in accident

12.04.1 Where an accident occurs within the Republic, the PIC of the aircraft involved in the accident, or if he or she is killed or incapacitated, a flight crew member, or if there are no surviving flight crew members, or if they are incapacitated, the operator or owner of such aircraft or where the accident occurs on an aerodrome, the aerodrome manager, shall—

- (a) pending the arrival of a police guard, take such steps which may be necessary to prevent any interference with the aircraft, the wreck or wreckage and anything transported therein and any marks resulting from the accident which may be of assistance in an investigation;
- (b) forthwith arrange with a member of the South African Police Service to guard the aircraft, the wreck or wreckage and anything transported therein and any marks resulting from the accident which may be of assistance in an investigation.

Access to the scene of accident

12.04.2 (1) No person other than—

- (a) a member of the rescue service;
- (b) a *pro-tem* investigator;
- (c) an investigator;
- (d) an accredited representative;
- (e) an advisor;
- (f) a member of the South African Police Service; or
- (g) any other person authorised by the Director of Investigation, after consultation with the investigator-in-charge, shall, until such time as the investigator-in-charge otherwise determines, have access to an aircraft which has been involved in an accident or to the wreck or wreckage and any marks resulting from the accident which may be of assistance in an investigation.

(2) Every person permitted by the provisions of subregulation (1) or authorised in terms thereof to have access to an aircraft which has been involved in an accident or to the wreck or wreckage or to places where marks resulting from the accident occur which may be of assistance in an investigation, shall be subject to the direction of the investigator-in-charge until the investigation has been completed.

Control of evidence

12.04.3 The aircraft, the wreck or wreckage and anything transported therein and any marks resulting from the accident which may be of assistance in an investigation, shall remain under the control of the investigator-in-charge until released by such investigator-in-charge.

Interference with objects and marks at scene of accident

12.04.4 (1) Subject to the provisions of this Part, no person shall interfere with an aircraft which has been involved in an accident, the wreck or wreckage, a part or component thereof or anything transported therein or any marks resulting from the accident which may be of assistance in an investigation—

- (a) until authorised to do so by the investigator-in-charge; and
- (b) until, in the case of an aircraft which must be cleared by a customs officer by virtue of the provisions of the Customs and Excise Act, 1964 (Act No. [91 of 1964](#)), clearance has been issued or permission

granted by such officer.

(2) The provisions of subregulation (1) shall not prevent any action necessary for—

- (a) the rescue or extrication of persons or animals from the aircraft or the wreck;
- (b) the reasonable protection of the aircraft, the wreck or wreckage from destruction by fire or other causes;
- (c) the safeguarding by the owner, operator or police guard of precious metals, jewellery or valuables;
- (d) the prevention of danger or removal of an obstruction to other aircraft, other means of transport or to the public; and
- (e) the removal of the aircraft, any part or component thereof or anything transported therein to a safe place, when in water or otherwise endangered.

Removal of damaged or disabled aircraft

12.04.5 Subject to the conditions which the Director of Investigation may determine, a person authorised by the Director of Investigation for this purpose, may direct any person to move an aircraft which is damaged or disabled or to move any part thereof or any cargo or thing carried therein, to another place, at the expense of the owner or operator of the aircraft.

Non-disclosure of records

12.04.6 (1) The following records shall not be made available for purposes other than accident or incident investigations, unless a court of law determines that their public disclosure outweighs the adverse domestic and international impact such action may have on that or future investigations, taking into account all applicable law—

- (a) all statements taken from persons by the investigator/s of the investigation team in the course of the investigation;
- (b) all records of communications between persons having been involved in the operation of the aircraft;
- (c) names, medical and private information regarding persons involved in the accident or incident;
- (d) cockpit voice recordings and transcripts from such recordings;
- (e) recordings and transcriptions of recordings from air traffic control units;
- (f) cockpit airborne image recordings and any part or transcripts from such recordings; and
- (g) opinions expressed in the analysis of information, including information obtained from flight recorders and ATC recordings.

(2) The records referred to in subregulation (1) shall be included in the final report or its appendices only when pertinent to the analysis of the accident or incident.

(3) Parts of the record not relevant to the analysis shall not be disclosed.

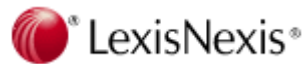
Use of information for internal proceedings

12.04.7 Notwithstanding the provisions of regulation [12.04.6](#), an appropriate authority may authorise the use of the records referred to in regulation [12.04.6 \(1\)](#) except the records mentioned in paragraphs (d) and (f) thereof, for internal proceedings when—

- (a) there is evidence that the occurrence was caused by an act considered, after investigation in accordance with these regulations, to be conducted with intent to cause damage, or conducted with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or

wilful misconduct;

- (b) the appropriate authority considers that circumstances reasonably indicate that the occurrence may have been caused by conduct with intent to cause damage, or conduct with knowledge that damage would probably result, equivalent to reckless conduct, gross negligence or wilful misconduct; or
- (c) a review by the appropriate authority determines that the release of the safety information is necessary for the proper administration of justice, and that its release outweighs the adverse domestic and international impact such release may have on the future availability of safety information.



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