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Supplement Annex

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| Annex Reference         | State Reference  | Difference Level                                       | State Difference   |
|-------------------------|--|--|--|
| Accident                | - Transport Safety Investigation Act<br>2003: sections 3, 18, 19 and 23; -<br>Transport Safety Investigation<br>Regulations 2021, section 5 and<br>Part 2; - Safety Improvement<br>Reference Framework/Safety<br>reporting/Section overview/ICAO<br>definitions accidents and serious<br>incidents | Different in character or<br>other means of compliance | Australia requires reporting of 'transport<br>safety matters', which, through definitions and<br>reporting requirements in the Transport Safety<br>Investigation Act 2003 and Transport Safety<br>Investigation Regulations 2021 result in<br>matters being reported which are equivalent to<br>those contained in the Annex 13 definition of<br>an accident. The Annex 13 definition of an<br>accident is used for classifying reports in the<br>Accident Investigation Authority's database. |
| Aircraft                | Transport Safety Investigation Act 2003, section 3.  | Different in character or other means of compliance    | Detail of Difference: Broader definition of an<br>aircraft being: any machine or craft used in air<br>navigation, however propelled or moved.  |
| Causes                  | - Transport Safety Investigation Act<br>2003: sections 12AA(1)(c) and<br>12AD; - Transport Safety<br>Investigation Regulations 2021,<br>section 39; - Safety Improvement<br>Reference Framework/Occurrence<br>Investigation/Analysis/Types of<br>findings  | Different in character or<br>other means of compliance | Australia does not use the word 'cause(s)' in<br>relation to factors associated with an accident<br>or incident. Australia instead identifies<br>'contributory factors' and 'safety factors' in<br>its investigations.   |
| Contributing<br>factors | - Transport Safety Investigation Act<br>2003, ss. 12AA, 12AD; - Safety<br>Improvement Reference<br>Framework/Occurrence<br>Investigation/Analysis/Types of<br>findings   | More exacting or exceeds                               | The ATSB defines contributing safety factor<br>as: an occurrence is a safety factor that, if it<br>had not occurred or existed at the relevant<br>time, then either: • the occurrence would<br>probably not have occurred • adverse<br>consequences associated with the occurrence<br>would probably not have occurred or have<br>been as serious • another contributing safety<br>factor would probably not have occurred or<br>existed.  |
| Flight recorder         | - Transport Safety Investigation Act<br>2003, sections 3 and 48 Civil<br>Aviation Act 1988, Part IIIB<br>Safety Improvement Reference<br>Framework/Occurrence<br>investigation/Information and<br>evidence/Electronically-recorded<br>data/Vehicle recorders/Aviation<br>recorders                 | Different in character or other means of compliance    | Detail of Difference: Australia uses<br>definitions for Cockpit Voice Recording<br>(CVR), On-board Recording (OBR) and<br>'Restricted Information' to refer to<br>information that is derived from a Flight<br>Recorder.   |
| Incident                | - Transport Safety Investigation Act<br>2003, sections 3, 19 and 23; -<br>Transport Safety Investigation<br>Regulations 2021, section 5 and<br>Part 2; - Safety Improvement<br>Reference Framework/Safety<br>reporting/Section overview/ICAO<br>definitions accidents and serious<br>incidents     | Different in character or<br>other means of compliance | Australia requires reporting of 'transport<br>safety matters', which, through definitions and<br>reporting requirements in the Transport Safety<br>Investigation Act 2003 and Transport Safety<br>Investigation Regulations 2021 result in<br>matters being reported which are equivalent to<br>those contained in the Annex 13 definition of<br>an incident. The Annex 13 definition of an<br>incident is used for classifying reports in the<br>Accident Investigation Authority's database. |

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| <u>Annex Reference</u>   | State Reference   | <b>Difference</b> Level  | State Difference  |
| Investigation            | - Transport Safety Investigation Act<br>2003: sections 3, 12AA, 21, 23; -<br>Transport Safety Investigation<br>Regulations 2021, section 5; -<br>Safety Improvement Reference<br>Framework/Analysis/Tools/Referen<br>ce material                                | Different in character or<br>other means of compliance         | Australia does not use the term causes.<br>Australia uses the terms 'contributory factors'<br>and 'safety factors'. See the difference lodged<br>for the term 'causes'.   |
| Operator                 | - Transport Safety Investigation<br>Regulations 2021, section 5   | Different in character or other means of compliance            | Detail of Difference: Australia defines an<br>'operator' to mean: "in relation to a transport<br>vehicle, means a person, organisation or<br>enterprise operating, or offering to operate,<br>the vehicle for the purposes of travel."  |
| Safety<br>recommendation | - Transport Safety Investigation Act<br>2003, sections 3, 25 and 25A; -<br>Safety Improvement Reference<br>Framework/Occurrence<br>investigation/Safety issues and<br>action/Safety issue<br>communication/Safety<br>Recommendations                            | Different in character or<br>other means of compliance         | Essence of definition adopted in legislation<br>and in policy and procedures documents.<br>However, Australia reserves the term safety<br>recommendation for making formal<br>recommendations which are used as a last<br>resort.   |
| Serious incident         | - Transport Safety Investigation Act<br>2003: sections 3, 18, 19 and 23; -<br>Transport Safety Investigation<br>Regulations 2021, section 5 and<br>Part 2; - Safety Improvement<br>Reference Framework/Safety<br>reporting/Section overview/ICAO<br>definitions | Different in character or<br>other means of compliance         | Australia requires reporting of 'transport<br>safety matters', which, through definitions and<br>reporting requirements in the Transport Safety<br>Investigation Act 2003 and Transport Safety<br>Investigation Regulations 2021 result in<br>matters being reported which are equivalent to<br>those contained in the Annex 13 definition of<br>a serious incident. The Annex 13 definition of<br>a serious incident is used for classifying<br>reports in the Accident Investigation<br>Authority's database.   |
| Serious injury           | - Transport Safety Investigation<br>Regulations 2021, section 5   | Less protective or partially<br>implemented not<br>implemented | Detail of Difference: The Australian definition<br>is less specific than that prescribed under the<br>standard, and therefore captures a larger<br>reporting population. The definition of a<br>serious injury is: an injury that requires, or<br>would usually require, admission to hospital<br>within 7 days after the day when the injury is<br>suffered.   |
| 2.1                      | - Transport Safety Investigation Act<br>2003, sections 5, 6 and 12AD; -<br>Transport Safety Investigation<br>Regulations 2021, section 39   | Less protective or partially<br>implemented not<br>implemented | Detail of Difference: Australia applies the specifications in the Annex unless a difference has been lodged.  |

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Annex Reference

3.1

State Reference - Transport Safety Investigation Act 2003, section 12AA

Difference Level More exacting or exceeds



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### State Difference

Detail of Difference: Section 12AA of the Transport Safety Investigation Act 2003 states: (1) The ATSB's function is to improve transport safety by means that include the following: (a) receiving and assessing reports of transport safety matters, reportable matters, and other safety information that is prescribed by the regulations; (b) independently investigating transport safety matters; (c) identifying factors that: (i) contribute, or have contributed, to transport safety matters; or (ii) affect, or might affect, transport safety; (d) communicating those factors to relevant sectors of the transport industry and the public in any way, including in any one or more of the following ways: (i) by making safety action statements; (ii) by making safety recommendations; (iii) by issuing safety advisory notices; (e) reporting publicly on those investigations; (f) conducting public educational programs about matters relating to transport safety; (g) any other means prescribed by the regulations. (2) The ATSB also has the following functions: (a) cooperating with: (i) an agency of the Commonwealth, a State or Territory that has functions or powers relating to transport safety or functions affected by the ATSB's function of improving transport safety; and (ii) a person who has, under a law of the Commonwealth, a State or Territory, functions or powers relating to transport safety or functions affected by the ATSB's function of improving transport safety; and (iii) a national authority or other body of another country that has functions or powers relating to transport safety or functions affected by the ATSB's function of improving transport safety; (b) doing anything incidental to its function of improving transport safety. (3) The following are not functions of the ATSB: (a) to apportion blame for transport safety matters; (b) to provide the means to determine the liability of any person in respect of a transport safety matter; (c) to assist in court proceedings between parties (except as provided by this Act, whether expressly or impliedly); (d) to allow any adverse inference to be drawn from the fact that a person was involved in a transport safety matter. However, even though blame or liability may be inferred, or an adverse inference may be made, by a person other than the ATSB, this

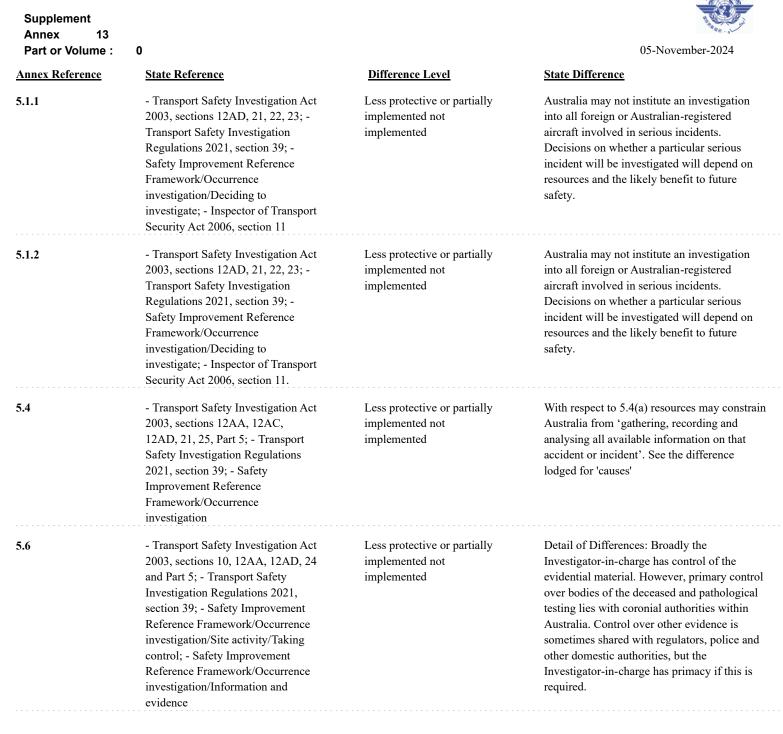
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| <u>Annex Reference</u> | <u>State Reference</u>  | <u>Difference Level</u>  | State Difference<br>does not prevent the ATSB from carrying out<br>its functions.  |
|------------------------|---|--|--|
| 4.2                    | <ul> <li>Transport Safety Investigation Act<br/>2003 Part 3, sections 12AD and 61;</li> <li>Transport Safety Investigation<br/>Regulations 2021, section 39; -<br/>Safety Improvement Reference<br/>Framework/Accident Investigation<br/>Management System (AIMS); -<br/>Privacy Act 1988.</li> </ul>   | Less protective or partially<br>implemented not<br>implemented | Australia may not disclose the name of the<br>owner when known, in the notification of an<br>accident or serious incident to any State or to<br>ICAO   |
| 4.6                    | <ul> <li>Transport Safety Investigation Act<br/>2003 Part 3, sections 12AA and 61;</li> <li>Transport Safety Investigation<br/>Regulations 2021, section 39; -<br/>Safety Improvement Reference<br/>Framework/Safety<br/>reporting/International reporting; -<br/>Safety Improvement Reference<br/>Framework/Occurrence<br/>investigation/Site<br/>activity/Overview/Roles/Who/Non-<br/>ATSB investigations/International<br/>investigations</li> </ul>                         | Less protective or partially<br>implemented not<br>implemented | Detail of Difference: Before providing all<br>information in accordance with this standard<br>Australia will take into account the extent to<br>which the receiving State is able and willing<br>to protect the information from use in blame<br>or liability proceedings having regard to the<br>guarantees under Australia's domestic<br>legislation when the information was collected<br>or generated. |
| 4.10                   | <ul> <li>Transport Safety Investigation Act<br/>2003 Part 3, sections 12AD and 61;</li> <li>Transport Safety Investigation<br/>Regulations 2021, section 39; -<br/>Safety Improvement Reference<br/>Framework/Safety<br/>reporting/International reporting; -<br/>Safety Improvement Reference<br/>Framework/Occurrence<br/>investigation/Site<br/>activity/Overview/Roles/Who/Non-<br/>ATSB investigations/International<br/>investigations</li> </ul>                         | Less protective or partially<br>implemented not<br>implemented | Before providing all information in<br>accordance with this standard Australia will<br>take into account the extent to which the<br>receiving State is able and willing to protect<br>the information from use in blame or liability<br>proceedings having regard to the guarantees<br>under Australia's domestic legislation when<br>the information was collected or generated.                          |
| 5.1                    | - Transport Safety Investigation Act<br>2003, sections 12AD, 21, 22, 23; -<br>Transport Safety Investigation<br>Regulations 2021, section 39; -<br>Safety Improvement Reference<br>Framework/Occurrence<br>investigation/Deciding to<br>investigate; - Safety Improvement<br>Reference Framework/Occurrence<br>investigation/Site<br>activity/Overview/Roles/Who/Exter<br>nal participants- ATSB<br>investigation; - Inspector of<br>Transport Security Act 2006,<br>section 11 | Less protective or partially<br>implemented not<br>implemented | Australia may not institute an investigation<br>into 'domestic' accidents where the aircraft<br>concerned is on the Australian Register.<br>Decisions on whether a particular domestic<br>accident will be investigated will depend on<br>resources and the likely benefit to future<br>safety, particularly in the general aviation<br>sector.  |



5.12

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### **Annex Reference State Reference** - Transport Safety Investigation Act 2003, sections 3, 12AA, 12AD and Part 6; - Transport Safety Investigation Regulations 2021, section 39; - Civil Aviation Act

1988, Part IIIB

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**Difference Level** More exacting or exceeds

# State Difference

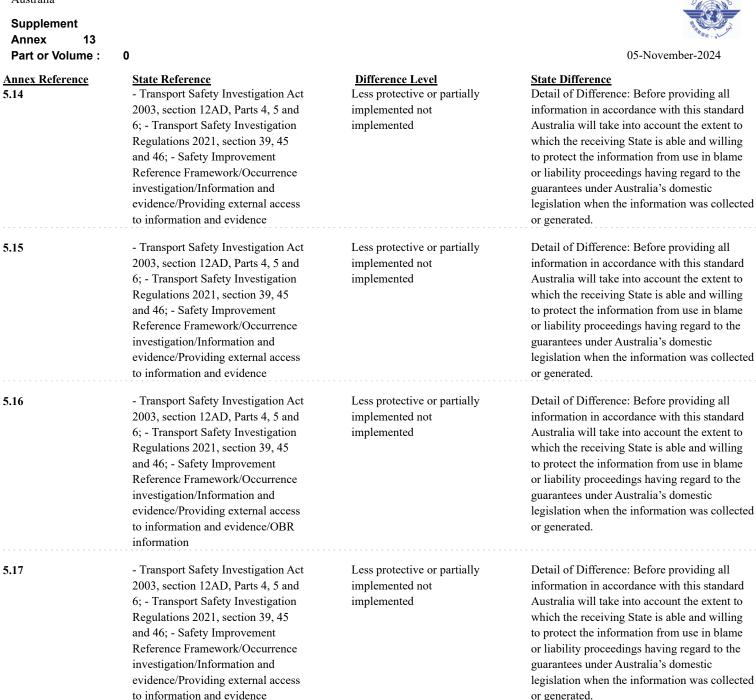
Detail of Difference: There are elements of 5.12 where Australia is more exacting and exceeds the standard by: (a) protecting the following records additional to those in 5.12: (i) all information recorded by an Investigating Authority staff member; (ii) in relation to a transport vehicle that is or was the subject of an investigation - information recorded for the purposes of monitoring or directing the progress of the vehicle from one place to another or information recorded in relation to the operation of the vehicle; (iii) information contained in documents obtained using coercive information gathering powers; and (b) for civil proceedings, requiring that before the appropriate authority for the administration of justice applies the balancing test, the Accident Investigation Authority must decide whether to issue a certificate stating that the disclosure of information is not likely to interfere with any investigation (a court cannot require the disclosure of information without this certificate); and (c) the Accident Investigation Authority cannot disclose the records to a court in criminal proceedings.

Detail of Difference: There are elements of 5.12 where Australia is more exacting and exceeds the standard by: (a) protecting the following records additional to those in 5.12: (i) all information recorded by an Investigating Authority staff member; (ii) in relation to a transport vehicle that is or was the subject of an investigation - information recorded for the purposes of monitoring or directing the progress of the vehicle from one place to another or information recorded in relation to the operation of the vehicle; (iii) information contained in documents obtained using coercive information gathering powers; and (b) for civil proceedings, requiring that before the appropriate authority for the administration of justice applies the balancing test, the Accident Investigation Authority must decide whether to issue a certificate stating that the disclosure of information is not likely to interfere with any investigation (a court cannot require the disclosure of information without this certificate); and (c) the Accident Investigation Authority cannot disclose the records to a court in criminal proceedings.

5.12.1

Transport Safety Investigation Act 2003, sections 60 'Restricted Information and section 3 'Definitions'

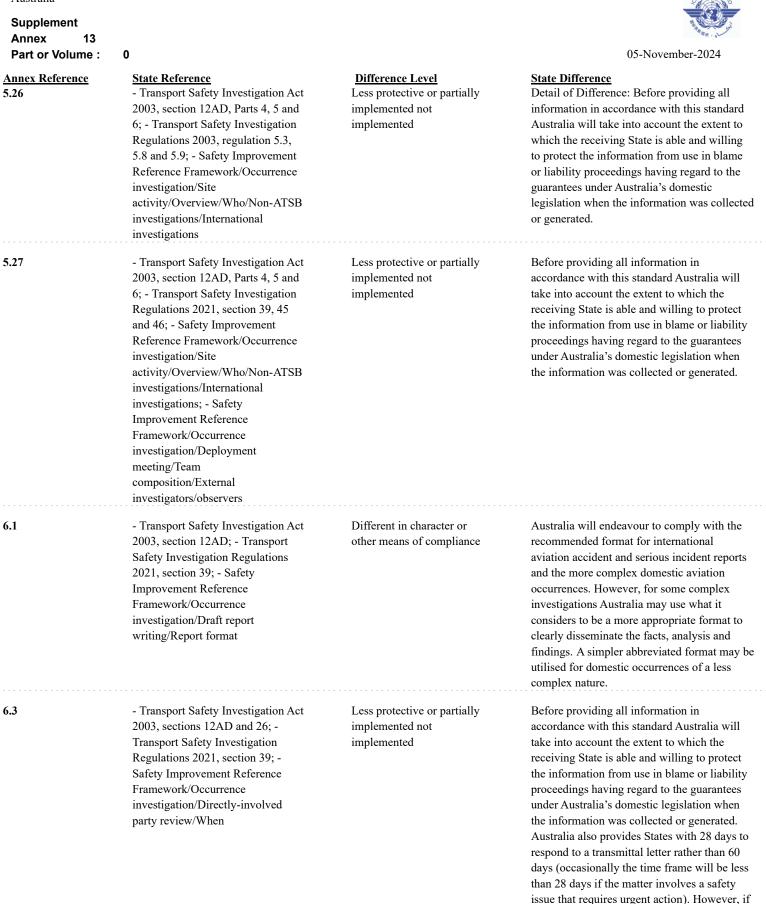
More exacting or exceeds



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Representative is able and willing to protect the information from use in blame or liability proceedings having regard to the guarantees under Australia's domestic legislation when the information was collected or generated.



a request for an extension is made Australia

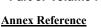
will consider it.

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| Supplement<br>Annex 13                     | •   |  |   |
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| Part or Volume :<br><u>Annex Reference</u> | 0<br><u>State Reference</u>   | Difference Level   | 05-November-2024<br><u>State Difference</u>   |
| 6.3.1                                      | - Transport Safety Investigation Act<br>2003, sections 12AD and 26; -<br>Transport Safety Investigation<br>Regulations 2021, section 39; -<br>Safety Improvement Reference<br>Framework/Occurrence<br>investigation/Directly-involved<br>party review/General approach  | Less protective or partially<br>implemented not<br>implemented | Detail of Difference: Before providing all<br>information in accordance with this standard<br>Australia will take into account the extent to<br>which the receiving State is able and willing<br>to protect the information from use in blame<br>or liability proceedings having regard to the<br>guarantees under Australia's domestic<br>legislation when the information was collected<br>or generated.        |
| 6.3.2                                      | - Transport Safety Investigation Act<br>2003, sections 12AD and 26; -<br>Transport Safety Investigation<br>Regulations 2021, section 39; -<br>Safety Improvement Reference<br>Framework/Occurrence<br>investigation/Directly-involved<br>party review/General approach  | Less protective or partially<br>implemented not<br>implemented | Detail of Difference: Before providing all<br>information in accordance with this standard,<br>Australia will take into account the extent to<br>which the receiving State is able and willing<br>to protect the information from use in blame<br>or liability proceedings having regard to the<br>guarantees under Australia's domestic<br>legislation when the information was collected<br>or generated.       |
| 7.2  | - Transport Safety Investigation Act<br>2003, sections 12AD and 25; -<br>Transport Safety Investigation<br>Regulations 2021, section 39; -<br>Safety Improvement Reference<br>Framework/Safety<br>reporting/International<br>reporting/Notifying ICAO and<br>other member states of an aviation<br>accident or serious incident | Less protective or partially<br>implemented not<br>implemented | Detail of Differences: Australia will comply<br>with the standard for the more complex<br>accidents. However, for some less complex<br>investigations Australia does not prepare a<br>Preliminary Report.   |
| 7.6  | - Transport Safety Investigation Act<br>2003, sections 12AD, 25, 51 and<br>61; - Transport Safety Investigation<br>Regulations 2021, section 39; -<br>Safety Improvement Reference<br>Framework/Occurrence<br>investigation/Information and<br>evidence/Providing external access<br>to information and evidence                | Less protective or partially<br>implemented not<br>implemented | Detail of Difference: Before providing all<br>information in accordance with this<br>recommendation, Australia will take into<br>account the extent to which the receiving State<br>is able and willing to protect the information<br>from use in blame or liability proceedings<br>having regard to the guarantees under<br>Australia's domestic legislation when the<br>information was collected or generated. |

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8.2

# State Reference

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Australian Transport Safety Bureau and Civil Aviation Safety Authority notifications information sharing policy.

### Difference Level Different in character or

other means of compliance



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# State Difference

The ATSB does not share all notifications information with the Regulator. The information sharing policy states: The ATSB informs CASA about accidents and serious incidents as soon as the ATSB is informed. The information may contain details such as operator names, registration numbers, times, dates, locations and a description of the event. The ATSB aims, wherever possible, to avoid directly identifying individuals. CASA is also provided daily with a redacted report of all occurrences entered into the ATSB database. The report contains standard information about occurrences notified to the ATSB, including aircraft registration, so that CASA has enough detail to gather its own information about the occurrence. It does not contain a detailed narrative. An automated weekly transfer of summaries of information entered in the ATSB's database during that week is also provided to CASA. The aggregate summary does not include identifying information such as aircraft registration, but provides enough information for CASA to be able to analyse safety trends, and to identify actual or potential safety risks to which more immediate attention needs to be directed.