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Ordinance on the Safety Investigation of Transport Incidents (OSITI)

of 17 December 2014 (Status as of 1 February 2015)

The Swiss Federal Council,

on the basis of Articles 15a paragraphs 1 and 5, 15b paragraph 6, 15c and 95 of the Railways Act from 20 December 1957¹ (RailA),
on Article 12 paragraph 1 of the Federal Act of 5 October 1990² on Private Sidings,
on Article 5 paragraph 2 of the Navigation Act of 23 September 1953³
and on Articles 25 paragraphs 1 and 5, 26 paragraph 6 and 26a paragraph 1 of the Civil Aviation Act of 21 December 1948⁴ (CAA),
in implementation of Regulation (EU) No 996/2010⁵ in the version binding on Switzerland in accordance with number 3 of the Annex to the Agreement of 21 June 1999⁶ between the Swiss Confederation and the European Union on Air Transport and Directive 2004/49/EC⁷ in the version currently binding on Switzerland in accordance with Annex 1 to the Agreement of 21 June 1999⁸ between the Swiss Confederation and the European Union on the carriage of goods and passengers by rail and road,

ordains:

AS 2000 2103

1 SR 742.101

2 SR 742.141.5

3 SR 747.30

4 SR 748.0

5 Regulation (EU) Nr. 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, OJ L 295 of 12.11.2010, p. 35–50.

6 SR 0.748.127.192.68

7 Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity, and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive), OJ L 164 of 30.4.2004, p. 44; last amended by Directive 2009/149/EC, OJ L 313 of 28.11.2009, p. 65.

8 SR 0.740.72

Section 1 General Provisions

Art. 1 Subject matter

¹ This Ordinance regulates the reporting and investigation of incidents:

- a. involving railway undertakings and federally-licensed cableway, automobile, trolleybus and shipping undertakings, and on private sidings (public transport);
- b. in civil aviation within Switzerland and involving Swiss aircraft abroad;
- c. in maritime navigation involving maritime vessels entered in the Swiss Maritime Shipping Register.

² It regulates the organisation and tasks of the Swiss Transportation Safety Investigation Board (STSB).

Art. 2 Purpose and subject matter of investigations

¹ Investigations serve to prevent further incidents.

² The subject of investigations are the technical, operational, human, organisational and systemic causes and circumstances that led to the incident.

Art. 3 Incidents

Incidents are defined as follows:

- a. in public transport: events set out in Articles 15 and 16;
- b. in civil aviation: accidents and incidents as defined in Article 2 of Regulation (EU) No 996/2010;
- c. in maritime navigation: events that require a Flag State to hold an investigation under Article 94 number 7 of the United Nations Convention on the Law of the Sea of 10 December 1982⁹.

Art. 4 Public transport: special terms

In public transport:

- a. *accident* means any event resulting in a fatal or serious injury, considerable property damage or a major accident as defined in the Major Accidents Ordinance of 27 February 1991¹⁰;
- b. *serious incident* means any event that would have led to an accident had it not been prevented by automatic safety precautions;
- c. *fatal injury* means any injury sustained by a person in an accident which results in his or her death within 30 days of the date of the accident;

⁹ SR 0.747.305.15

¹⁰ SR 814.012

- d. *serious injury* means any injury sustained by a person in an accident the treatment of which necessitates hospitalisation for more than 24 hours;
- e. *minor injury* means any injury that necessitates out-patient treatment;
- f. *considerable property damage* means property damage that is a direct consequence of an accident, the value of which exceeds 50,000 francs in the case of cableways or 180,000 francs in the case of all other forms of transport;
- g. *substantial incident* means any incident that interrupts the operation of a line for at least six hours;
- h. *exceptional event* means any event due to the technical failure of safety-related installations or to inadequate or defective safety measures or to safety-related human error;
- i. *dangerous goods event* means any event under Section 1.8.5 of the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID)¹¹, Annex C to the Convention of 9 May 1980¹² concerning International Carriage by Rail (COTIF) in the version of the Protocol of Modification of 3 June 1999¹³;
- j. *signalling incident* means any event in which part of a train or a shunting operation travels beyond the permitted endpoint of the journey.

Art. 5¹⁴ Civil aviation: Equivalence of terms

For the correct interpretation of Regulation (EU) No 996/2010, which is referred to in this Ordinance, the following terminological equivalences apply:

Term in Regulation (EU) No 996/2010	Term in this Ordinance
final report	final report
serious incident	serious incident
witnesses	witnesses

¹¹ The RID is not published in the AS or in the SR. A separate publication including amendments may be obtained from the Bundesamt für Bauten und Logistik, Verkauf Bundespublikationen, 3003 Bern, or directly from the Intergovernmental Organisation for International Carriage by Rail (OTIF), www.otif.org.

¹² SR **0.742.403.1**

¹³ SR **0.742.403.12**

¹⁴ This Article is only of relevance to the Swiss language versions.

Section 2 Organisation and Tasks of the STSB

Art. 6 Status

The Swiss Transportation Safety Investigation Board (STSB) is an extra-parliamentary committee under Articles 57a-57g of the Government and Administration Organisation Act of 21 March 1997¹⁵.

Art. 7 Composition

The STSB comprises three to five independent specialists from the relevant transport sectors.

Art. 8 Investigation Bureau

The STSB has a specialist secretariat (the Investigation Bureau).

Art. 9 Independence

¹ The STSB and its members act in accordance with directives.

² The STSB shall take the organisational measures required to safeguard its interests and prevent conflicts of interest.

Art. 10 Tasks of the STSB

The STSB has the following tasks:

- a. it investigates transport incidents.
- b. it organises itself and the Investigation Bureau, unless such organisation is regulated by this Ordinance or the order constituting the STSB.
- c. it determines the goals and priorities for its activities.
- d. it appoints the Director of the Investigation Bureau and its other staff.
- e. it designates the reporting office.
- f. it ensures that the chief investigators and specialists required for the investigations are made available.
- g. it supervises the Investigation Bureau.
- h. it approves the final report (Art. 47).
- i. it decides on objections to rulings issued in investigations (Art. 15b para. 4 RailA, Art. 26 para. 4 CAA).
- j. it ensures an effective quality assurance system.
- k. it prepares an annual report on its activities for each financial year, in particular on the achievement of goals, submits the same to the Federal Council for information and publishes the same thereafter.

¹⁵ SR 172.010

Art. 11 Tasks of the Director of the Investigation Bureau

The Director of the Investigation Bureau has the following tasks:

- a. he or she draws up the principles for the STSB's decisions and reports to the STSB regularly on the activities of the Investigation Bureau, and immediately in the event of special circumstances.
- b. he or she carries out the tasks not assigned to another body.

Art. 12 Tasks of the reporting office

¹ The reporting office accepts reports of incidents at all times.

² It forwards the reports immediately to the Investigation Bureau.

Art. 13 Staff of the Investigation Bureau

The staff of the Investigation Bureau, including the Director, are governed by the law on federal personnel.

Art. 14 Official secrecy

¹ The members of the STSB, the staff of the Investigation Bureau and external experts shall preserve official secrecy.

² For members of the STSB, the Federal Department of the Environment, Transport, Energy and Communications (DETEC) is the superior authority responsible for an exemption from the requirements of official secrecy (Art. 320 Sec. 2 of the Criminal Code¹⁶).

Section 3: Reporting Obligations**Art. 15** Public Transport: Reports to the reporting office

¹ Public transport undertakings shall report the following immediately to the reporting office immediately:

- a. accidents;
- b. serious incidents;
- c. exceptional events;
- d. suspected or proven sabotage;
- e. fires in vehicles;
- f. sinking, collision and grounding of ships.

² Obvious suicides and attempted suicides, and incidents on public roads that due to a violation of road traffic regulations need not be reported.

¹⁶ SR 311.0