

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

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



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2.1	- Transport Safety Investigation Act 2003, sections 5, 6 and 12AD; - Transport Safety Investigation Regulations 2021, section 39	Less protective or partially implemented not implemented	Detail of Difference: Australia applies the specifications in the Annex unless a difference has been lodged.



19-November-2025

Annex Reference

3.1

State Reference

- Transport Safety Investigation
 Act 2003, section 12AA

Difference Level

More exacting or exceeds

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



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
			does not prevent the ATSB from carrying out its functions.
4.2	- Transport Safety Investigation Act 2003 Part 3, sections 12AD and 61; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Accident Investigation Management System (AIMS); - Privacy Act 1988.	Less protective or partially implemented not implemented	Australia may not disclose the name of the owner when known, in the notification of an accident or serious incident to any State or to ICAO
4.6	- Transport Safety Investigation Act 2003 Part 3, sections 12AA and 61; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Safety reporting/International reporting; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
4.10	- Transport Safety Investigation Act 2003 Part 3, sections 12AD and 61; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Safety reporting/International reporting; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations	Less protective or partially implemented not implemented	Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
5.1	- Transport Safety Investigation Act 2003, sections 12AD, 21, 22, 23; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Deciding to investigate; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/External participants - ATSB investigation; - Inspector of Transport Security Act 2006, section 11	Less protective or partially implemented not implemented	Australia may not institute an investigation into 'domestic' accidents where the aircraft concerned is on the Australian Register. Decisions on whether a particular domestic accident will be investigated will depend on resources and the likely benefit to future safety, particularly in the general aviation sector.
5.1.1	- Transport Safety Investigation Act 2003, sections 12AD, 21, 22, 23; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Deciding to investigate; - Inspector of Transport Security Act 2006, section 11	Less protective or partially implemented not implemented	Australia may not institute an investigation into all foreign or Australian-registered aircraft involved in serious incidents. Decisions on whether a particular serious incident will be investigated will depend on resources and the likely benefit to future safety.
5.1.2	- Transport Safety Investigation Act 2003, sections 12AD, 21, 22, 23; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Deciding to investigate; - Inspector of Transport Security Act 2006, section 11.	Less protective or partially implemented not implemented	Australia may not institute an investigation into all foreign or Australian-registered aircraft involved in serious incidents. Decisions on whether a particular serious incident will be investigated will depend on resources and the likely benefit to future safety.
5.4	- Transport Safety Investigation Act 2003, sections 12AA, 12AC, 12AD, 21, 25, Part 5; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation	Less protective or partially implemented not implemented	With respect to 5.4(a) resources may constrain Australia from 'gathering, recording and analysing all available information on that accident or incident'. See the difference lodged for 'causes'



19-November-2025

Annex Reference
5.6

State Reference

- Transport Safety Investigation Act 2003, sections 10, 12AA, 12AD, 24 and Part 5; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Taking control; - Safety Improvement Reference Framework/Occurrence investigation/Information and evidence

Difference Level

Less protective or partially implemented not implemented

State Difference

Detail of Differences: Broadly the Investigator-in-charge has control of the evidential material. However, primary control over bodies of the deceased and pathological testing lies with coronial authorities within Australia. Control over other evidence is sometimes shared with regulators, police and other domestic authorities, but the Investigator-in-charge has primacy if this is required.

5.12

- 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

More exacting or exceeds

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.



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
5.12.1	Transport Safety Investigation Act 2003, sections 60 'Restricted Information and section 3 'Definitions'	More exacting or exceeds	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.
5.14	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Information and evidence/Providing external access to information and evidence	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
5.15	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Information and evidence/Providing external access to information and evidence	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
5.16	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Information and evidence/Providing external access to information and evidence/OBR information	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
5.17	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Information and evidence/Providing external access to information and evidence	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
5.22	- Transport Safety Investigation Act 2003, section 12AA, 12AD; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations; - Safety Improvement Reference Framework/Safety reporting/International reporting/Notifying ICAO and other member states	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
5.24.1	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations	Less protective or partially implemented not implemented	Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
5.25	- Transport Safety Investigation Act 2003, section, 12AD, 13, 14, and Parts 5 and 6; - Transport Safety Investigation Regulations 2021, section 35, 36, 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations	Less protective or partially implemented not implemented	Detail of Difference: While Australia will endeavour to comply with the standard to the extent necessary to make participation effective, the timing and access to sensitive evidence may be subject to confidentiality agreements and the restrictions of the legislation. Australia reserves the right to remove a participant from an investigation if they contravene the agreed conditions of participation or have a serious conflict of interest that may impede the conduct of the investigation. Australia will take into account the extent to which the Accredited 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.
5.26	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
5.27	- Transport Safety Investigation Act 2003, section 12AD, Parts 4, 5 and 6; - Transport Safety Investigation Regulations 2021, section 39, 45 and 46; - Safety Improvement Reference Framework/Occurrence investigation/Site activity/Overview/Roles/Who/Non-ATSB investigations/International investigations; - Safety Improvement Reference Framework/Occurrence investigation/Deployment meeting/Team composition/External investigators/observers	Less protective or partially implemented not implemented	Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
6.1	- Transport Safety Investigation Act 2003, section 12AD; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Draft report writing/Report format	Different in character or other means of compliance	Australia will endeavour to comply with the recommended format for international aviation accident and serious incident reports and the more complex domestic aviation occurrences. However, for some complex investigations Australia may use what it considers to be a more appropriate format to clearly disseminate the facts, analysis and findings. A simpler abbreviated format may be utilised for domestic occurrences of a less complex nature.
6.3	- Transport Safety Investigation Act 2003, sections 12AD and 26; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Directly-involved party review/Overview/When	Less protective or partially implemented not implemented	Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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. Australia also provides States with 28 days to respond to a transmittal letter rather than 60 days (occasionally the time frame will be less than 28 days if the matter involves a safety issue that requires urgent action). However, if a request for an extension is made Australia will consider it.
6.3.1	- Transport Safety Investigation Act 2003, sections 12AD and 26; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Directly-involved party review/Overview/General approach	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard Australia will take into account the extent to which the receiving State 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.
6.3.2	- Transport Safety Investigation Act 2003, sections 12AD and 26; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Directly-involved party review/Overview/General approach	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this standard, Australia will take into account the extent to which the receiving State 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.



19-November-2025

<u>Annex Reference</u>	<u>State Reference</u>	<u>Difference Level</u>	<u>State Difference</u>
7.2	- Transport Safety Investigation Act 2003, sections 12AD and 25; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Safety reporting/International reporting/Notifying ICAO and other member states of an aviation accident or serious incident	Less protective or partially implemented not implemented	Detail of Differences: Australia will comply with the standard for the more complex accidents. However, for some less complex investigations Australia does not prepare a Preliminary Report.
7.6	- Transport Safety Investigation Act 2003, sections 12AD, 25, 51 and 61; - Transport Safety Investigation Regulations 2021, section 39; - Safety Improvement Reference Framework/Occurrence investigation/Information and evidence/Providing external access to information and evidence	Less protective or partially implemented not implemented	Detail of Difference: Before providing all information in accordance with this recommendation, Australia will take into account the extent to which the receiving State 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.
8.2	Australian Transport Safety Bureau and Civil Aviation Safety Authority notifications information sharing policy.	Different in character or other means of compliance	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.