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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- THIRD SESSION (2019)

COMMITTEE ON DELEGATED LEGISLATION

REPORT ON THE CONSIDERATION OF THE KENYA
CIVIL AVIATION REGULATIONS OF 2018

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CLERK AT THE TABLE:	IRAZOV MWALE

The Directorate of Committee Services
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ABBREVIATIONS

ICAO	International Civil Aviation Authority
KCAA	Kenya Civil Aviation Authority
KCARs	Kenya Civil Aviation Regulations
LN	Legal Notice
RMA	Regulatory Making Authority
SARPs	International Standards and Recommended Practices
SI	Statutory Instruments
SO	Standing Order

CHAIRPERSON'S FOREWORD

In exercise of the powers conferred by section 82 of the Civil Aviation Act, 2013, the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development made the Kenya Civil Aviation Regulations, 2018 (KCARs).

The Regulations were published in the Gazette on various dates in 2018 vide Legal Notices 89, 90, 91, 92, 93, 94, 95, 96, 97, 119, 120, 124, 125, 126, 129, 131, 132, 133, 134, 135, 136, 137, 145, 146, 165, 166 and 167. They were received by the Clerk of National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019.

Kenya is a signatory to the Convention on International Civil Aviation (Chicago Convention) and as such is required to comply with the requirements that includes the Annexes to the Chicago Convention that are domesticated through the Kenya Civil Aviation Regulations, 2018 (KCARs). The Regulations lay down rules and requirements for the safe and secure conduct of aviation activities in Kenya and allow Kenya to fulfil international obligations for safety of international air transport systems.

Having examined the Regulations against the Constitution, the Interpretations and General Provisions Act (*Cap 2*), the Civil Aviation Act (*Cap 394*) and the Statutory Instruments Act (*No. 23 of 2013*), the Committee recommends to the House that the twenty seven (27) instruments be **annulled in entirety for contravening section 11(1) of the Statutory Instruments Act, 2013.**

I wish to most sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate.

On behalf of the Members of the Select Committee on Delegated Legislation and pursuant to section 15(1) of the Statutory Instruments Act, 2013 and Standing Order 210 (4) (b), it is my pleasure and duty to present to the House the Committee's **Report on the Consideration of the Civil Aviation Regulations of 2018.**

HON. GLADYS BOSS SHOLLEI CBS MP

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established pursuant to *Standing Order No. 210* and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. The Committee is mandated to consider in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the court;
 - f) gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;
 - g) it involves expenditure from the consolidated fund or other public revenues;
 - h) is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
 - l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
 - m) inappropriately delegates legislative powers;
 - n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
 - o) appears for any reason to infringe on the rule of law;
 - p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
 - q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises -

Chairperson

Hon. Gladys Boss Shollei CBS MP
Uasin Gishu County Woman Representative

Jubilee Party

Vice- Chairperson

Hon. Fatuma Gedi, MP
Wajir County Woman Representative
Party for Development and Reforms

MEMBERS

Hon. Waihenya Ndirangu, MP
Roysambu Constituency
Jubilee Party

Hon. Ronald Tonui, MP
Bomet Central Constituency
Jubilee Party

Hon. Alice Wahome, MP,
Kandara Constituency
Jubilee Party

Hon. William Kamoti, MP
Rabai Constituency
Orange Democratic Movement

Hon. Robert Mbui, MP
Kathiani Constituency,
Wiper Democratic Movement -Kenya

Hon. Martha Wangari, MP
Gilgil Constituency
Jubilee Party

Hon. Daniel Maanzo, MP
Makueni Constituency
Wiper Democratic Movement -Kenya

Hon. Gideon Mulyungi, MP
Mwingi Constituency
Wiper Democratic Movement – Kenya

Hon. Muriuki Njagagua, MP
Mbeere North Constituency
Jubilee Party

Hon. William Kassait Kamket, MP
Tiaty Constituency
KANU

Hon. Timothy Wanyonyi, MP
Westlands Constituency
Orange Democratic Movement

Hon. (Dr.) Wilberforce Oundo, MP
Funyula Constituency
Orange Democratic Movement

Hon. George G. Murugara, MP
Tharaka Constituency
Democratic Party

Hon. Jennifer Shamalla, MP
Nominated
Jubilee Party

Hon. Munene Wambugu, MP
Kirinyaga Central Constituency
Jubilee Party

Hon. Muturi Kigano, MP
Kangema Constituency
Jubilee Party

Hon. Patrick Kariuki Mariru, MP
Laikipia West Constituency
Jubilee Party

Hon. Sammy Seroney, MP
Nominated
Wiper Democratic Movement - Kenya

Hon. Tindi Mwale, MP
Butere Constituency
Amani National Congress

Hon. Alfred W. Sambu, MP
Webuye East
Amani National Congress

Hon. Abdi Koropu Tepo, MP
Isiolo South Constituency
Kenya Patriots Party

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises –

Ms. Susan Maritim
Senior Clerk Assistant (Team Leader)

Mr. Jimale Mohamed
Second Clerk Assistant

Mr. Wilson Dima Dima
Principal Legal Counsel

Mr. Josphat Motonu
Fiscal Analyst I

Ms. Anne Njeri Kigoro
Research Officer III

Ms. Winnie Kiziah
Media Relations Officer II

Mr. Anthony Wamae
Serjeant at Arms

Mr. Charles Ayari
Superintendent of Electronics

Ms. Mary Otieno
Office Superintendent

2.0 OVERVIEW OF THE INSTRUMENTS

Introduction

5. The purpose of the Kenya Civil Aviation Regulations, 2018 (KCARs) is to provide the regulatory framework to facilitate the safe, controlled and regulated operations of aircrafts in the country.
6. Kenya is a signatory to the Convention on International Civil Aviation (Chicago Convention) and as such is required to comply with the requirements that includes the Annexes to the Chicago Convention that are domesticated through the Kenya Civil Aviation Regulations, 2018 (KCARs).
7. The Regulations lay down rules and requirements for the safe and secure conduct of aviation activities in Kenya and allow Kenya to fulfil international obligations for safety of international air transport systems. The Regulations are a reflection of the international Standards and Recommended Practices.
8. The Committee considered the KCARs against the Constitution, the Interpretations and General Provisions Act (*Cap 2*), the Civil Aviation Act (*Cap 394*) and the Statutory Instruments Act (*No 23 of 2013*).

2.1 The Civil Aviation (Aircraft Accident & Incident Investigations) Regulations, 2018

9. The Civil Aviation (Aircraft Accident & Incident Investigations) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2013.
10. The Regulations domesticate ICAO Annex 7 and seek to govern the conduct of all aircraft accidents and investigations in Kenya.
11. The regulations were published in the Gazette as **Legal Notice No. 89 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.2 The Civil Aviation (Air Worthiness) Regulations, 2018

12. The Civil Aviation (Air Worthiness) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013 to repeal and replace the Civil Aviation (Airworthiness) Regulations 2013.
13. They seek to provide for the standards to be observed to ensure an aircraft is airworthy before operations and applies to all Kenyan registered aircrafts and foreign aircrafts operating in Kenya.
14. The Regulations were published in the Gazette as **Legal Notice No. 90 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on the 19th August, 2019

and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.3 The Civil Aviation (Safety Management) Regulations, 2018

15. The Civil Aviation (Safety Management) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Safety Management Systems) Regulations, 2015.
16. The Regulations domesticate ICAO Annex 19 and seek to govern safety management functions related to, or in direct support of, the safe operation of aircraft.
17. They were published in the Gazette as **Legal Notice No. 91 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.4 The Civil Aviation (Air Operator Certification and Administration) Regulations, 2018

18. The Civil Aviation (Air Operator Certification and Administration) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013 to repeal and replace the Civil Aviation (Air Operator Certification and Administration) Regulations, 2013.
19. They seek to prescribe requirements for the original certification and continued validity of an Air Operator Certificate (AOC) issued by KCAA and apply to air operators carrying passengers, cargo or mail for remuneration or hire whose principal place of business or permanent residence is located in Kenya.
20. The Regulations were published in the Gazette as **Legal Notice No. 92 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on the 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.5 The Civil Aviation (Approved Training Organizations) Regulations, 2018

21. The Civil Aviation (Approved Training Organizations) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Approved Training Organization) Regulations, 2013.
22. The Regulations seek to govern all entities that provide approved aviation training or courses that need specific approval from KCAA and offered to the general public.
23. The Regulations were published in the Gazette as **Legal Notice No. 93 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and

tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.6 The Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018

24. The Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2013.
25. The Regulations domesticate ICAO Annex 7 Aircraft Nationality and Registration Marks which seeks to govern the registration and re-registration of aircraft and allocation of nationality marks (the 5Y- mark for Kenyan aircraft).
26. The Regulations were published in the Gazette as **Legal Notice No. 94 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.7 The Civil Aviation (Approved Personnel Licensing) Regulations, 2018

27. The Civil Aviation (Approved Personnel Licensing) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. Gazette date 10th May, 2018. They were previously covered under the Civil Aviation (Personnel Licensing) Regulations, 2013.
28. The Regulations domesticate ICAO Annex 1 Personnel Licensing which seeks to govern the issuance of the various types of licenses to aviation personnel such as pilots, air traffic controllers and aircraft engineers.
29. They were published in the Gazette as **Legal Notice No. 95 of 2018** on 10th May, 2018, received by the Clerk of the National Assembly on the 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.8 The Civil Aviation (Approved Maintenance Organizations) Regulations, 2018

30. The Civil Aviation (Approved Maintenance Organizations) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Approved Maintenance Organizations) Regulations, 2013.
31. The Regulations seek to govern the certification of organizations that undertake maintenance of aircraft.
32. They were published in the Gazette as **Legal Notice No. 96 of 2018** on 4th May, 2018, received by the Clerk of the National Assembly on the 19th August, 2019 and tabled

before the House on 10thSeptember, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.9 The Civil Aviation (Operation of Aircraft- Helicopter) Regulations, 2018

33. The Civil Aviation (Operation of Aircraft- Helicopter) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013 and Gazetted on 16th May, 2018. They were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
34. The Regulations domesticate ICAO Annex 6 Part III - Operation of Aircraft - Commercial Helicopters which seeks to govern all entities that undertake commercial operations of helicopters in and out of Kenya.
35. They were published in the Gazette as **Legal Notice No. 97 of 2018** on 16th May, 2018, received by the Clerk of the National Assembly on 19thAugust, 2019 and tabled before the House on 10thSeptember, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.10 The Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018

36. The Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under Section 72 to 81 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
37. The Regulations seek to domesticate ICAO requirements for aircraft search and rescue operations. They apply to all aircraft requiring aeronautical search and rescue services and to persons or organizations responsible for the maintenance and operation of Aeronautical Search and Rescue services in Kenya and in areas over the high seas to which Kenya has been given responsibility under the regional air navigation plan.
38. The Regulations were published in the Gazette as **Legal Notice No. 119 of 2018** on 31stMay, 2018, received by the Clerk of the National Assembly on 19thAugust, 2019 and tabled before the House on 10thSeptember, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.11 The Civil Aviation (Units of Measurement to be used in Air and Ground Operations) Regulations, 2018

39. The Civil Aviation (Units of Measurement to be used in Air and Ground Operations) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under Section 26 of the Civil Aviation (Air Navigation Services) Regulations, 2013.

40. The Regulations seek to domesticate ICAO Annex 5 Units of Measurement to be used in Air and Ground Operations which governs the scientific parameters and units used in aviation.
41. They were published in the Gazette as **Legal Notice No. 120 of 2018** on 31st May, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.12 The Civil Aviation (Rules of the Air) Regulations, 2018

42. The Civil Aviation (Rules of the Air) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Rules of the Air) Regulations, 2013 and are applicable to –
- i) every person and every aircraft, including state aircraft (government owned, military and police aircraft in Kenya);
 - ii) all aircrafts bearing the nationality and registration marks of Kenya, wherever it may be, to the extent that they do not conflict with the rules published by the State having jurisdiction over the territory overflown.
 - iii) all aircrafts flying over the high seas.
43. The Regulations seek to domesticate ICAO Annex 2 Rules of the Air which governs the flying and manoeuvring of aircraft while in the airspace that is a Kenya shared resource.

44. They were published in the Gazette as **Legal Notice No. 124 of 2018** on 8th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.13 The Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018

45. The Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Air Navigation Services) Regulations, 2013.
46. The Regulations seek to govern entities that provide or seek to provide air navigation services within designated air spaces and aerodromes and also provide for provision of air navigation services to aviation users.
47. They were published in the Gazette as **Legal Notice No. 125 of 2018** on 8th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.14 The Civil Aviation (Operation of Aircraft for Commercial Air Transport) Regulations, 2018

48. The Civil Aviation (Operation of Aircraft for Commercial Air Transport) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
49. The Regulations seek to domesticate ICAO Annex 6 Part I - Operation of Aircraft - Commercial Air Transport Aeroplanes which governs all entities that undertake commercial air transport in and out of Kenya. They also provide for standards to be observed by all operators undertaking commercial operations in Kenya.
50. The Regulations were published in the Gazette as **Legal Notice No. 126 of 2018** on 8th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.15 The Civil Aviation (Certification, Licensing and Registration of Aerodromes) Regulations, 2018

51. The Civil Aviation (Certification, Licensing and Registration of Aerodromes) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.
52. The Regulations outline the various types of aerodromes and conditions to be met by an applicant who intends to set up any of the aerodrome categories.
53. They were published in the Gazette as **Legal Notice No. 129 of 2018** on 22nd June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.16 The Civil Aviation (Instruments and Equipment) Regulations, 2018

54. The Civil Aviation (Instruments and Equipment) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. Gazette date 28th June, 2018. They were previously covered under the Civil Aviation (Instruments and Equipment) Regulations, 2013.
55. The Regulations seek to domesticate ICAO requirements for an aircraft to be deemed airworthy by prescribing the instruments and equipment required on an aircraft to enable the undertaking of safe operations. They also govern the standards applicable on all instruments and equipment carried on board an aircraft.
56. They were published in the Gazette as **Legal Notice No. 131 of 2018** on 28th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled

before the House on 10thSeptember, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.17 The Civil Aviation (Aeronautical Information Services) Regulations, 2018

57. The Civil Aviation (Aeronautical Information Services) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
58. The Regulations seek to domesticate ICAO Annex 15 Aeronautical Information Services and apply to all aeronautical information services providers.
59. They were published in the Gazette as **Legal Notice No. 132 of 2018** on 27th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.18 The Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018

60. The Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 45 to 64 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
61. The Regulations seek to domesticate ICAO Annex 10 Aeronautical Telecommunication Vol IV Surveillance and Collision Avoidance Systems which governs systems that observe surveillance on all aircrafts as well as ensuring minimal chances of collisions.
62. They were published in the Gazette as **Legal Notice No. 133 of 2018** on 28th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.19 The Civil Aviation (Aeronautical Charts) Regulations, 2018

63. The Civil Aviation (Aeronautical Charts) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
64. The Regulations seek to domesticate ICAO Annex 4 Aeronautical Charts which apply to a person or entity providing an aeronautical cartographic service within designated airspaces and at aerodromes for civil aviation purposes in Kenya. The Regulations

also govern the production, publishing and standards for the development of all charts used in an aircraft.

65. They were published in the Gazette as **Legal Notice No. 134 of 2018** on 28th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.20 The Civil Aviation (Communication Procedures) Regulations, 2018

66. The Civil Aviation (Communication Procedures) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 55 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
67. The Regulations seek to domesticate ICAO Annex 10 Aeronautical Telecommunication Vol II Communication Procedures including those with PANS Status by governing communication procedures used by all airmen in aviation.
68. They were published in the Gazette as **Legal Notice No. 135 of 2018** on 28th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.21 The Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018

69. The Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 45 to 64 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
70. The Regulations seek to domesticate ICAO Annex 10 Aeronautical Telecommunication Vol V Radio Frequency Spectrum Utilization which governs utilization of radio frequency spectrums used in aviation.
71. They were published in the Gazette as **Legal Notice No. 136 of 2018** on 28th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.22 The Civil Aviation (Air Traffic Services) Regulations, 2018

72. The Civil Aviation (Air Traffic Services) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 28 to 44 of the Civil Aviation (Air Navigation Services) Regulations, 2013.

73. The Regulations seek to domesticate ICAO Annex 11 Air Traffic Services which governs the various activities relating to provision of air traffic services related to aerodrome control service, approach control service, approach radar control service, area control service, en-route radar control service, flight information service and alerting service. *They shall not apply to a person providing air traffic services in the course of his or her duties to state aircraft.*
74. The Regulations were published in the Gazette as **Legal Notice No. 137 of 2018** on 28th June, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.23 The Civil Aviation (Radio Navigation Aids) Regulations, 2018

75. The Civil Aviation (Radio Navigation Aids) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 49 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
76. The Regulations seek to domesticate ICAO Annex 10 Aeronautical Telecommunication Vol I Radio Navigation Aids which provides for radio navigation aids used by an aircraft.
77. They were published in the Gazette as **Legal Notice No. 145 of 2018** on 3rd July, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.24 The Civil Aviation (Communications Systems) Regulations, 2018

78. The Civil Aviation (Communications Systems) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
79. The Regulations seek to domesticate ICAO Annex 10 Aeronautical Telecommunication Vol III Communication Systems which apply to a person or entity providing Communication, Navigation and Surveillance Services within designated air spaces and at aerodromes.
80. They were published in the Gazette as **Legal Notice No. 146 of 2018** on 3rd July, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.25 The Civil Aviation (Operation of Aircraft - General Aviation-Aeroplanes) Regulations, 2018

81. The Civil Aviation (Operation of Aircraft - General Aviation-Aeroplanes) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
82. The Regulations seek to domesticate ICAO Annex 6 Part III - Operation of Aircraft – General Aviation which governs all entities that undertake operation of aircrafts for private or non-commercial purposes.
83. They were published in the Gazette as **Legal Notice No. 165 of 2018** on 10th July, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.26 The Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018

84. The Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Section 82 to 94 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
85. The Regulations seek to domesticate ICAO Annex 3 which provide for meteorology services provision and apply to persons or entities providing Meteorological services for air navigation services within Kenya air spaces and at aerodromes.
86. They were published in the Gazette as **Legal Notice No. 166 of 2018** on 10th July, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

2.27 The Civil Aviation (Licensing of Air Services) Regulations, 2018

87. The Civil Aviation (Licensing of Air Services) Regulations, 2018 were made by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development pursuant to section 82 of the Civil Aviation Act, 2013. They were previously covered under the Civil Aviation (Licensing of Air Services) Regulations, 2009.
88. The Regulations governs the issuance of Air Service Licenses that enable and operator to operate a specific route. They also provide for the economic and business plan requirements for all operators who intend to undertake operations in Kenya.
89. The Regulations were published in the Gazette as **Legal Notice No. 167 of 2018** on 18th July, 2018, received by the Clerk of the National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019 being out of the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013.

3.0 COMMITTEE OBSERVATIONS AND GROUNDS FOR RECOMMENDING ANNULMENT

90. Having examined the twenty seven (27) instruments against the Constitution, the Interpretations and General Provisions Act (*Cap 2*), the Civil Aviation Act (*Cap 394*) and the Statutory Instruments Act (*No. 23 of 2013*), the Committee observed that the Regulations were **published in the Kenya Gazette on various dates in 2018** vide Legal

Notices 89, 90, 91, 92, 93, 94, 95, 96, 97, 119, 120, 124, 125, 126, 129, 131, 132, 133, 134, 135, 136, 137, 145, 146, 165, 166 and 167; received by the Clerk of National Assembly on 19th August, 2019 and tabled before the House on 10th September, 2019.

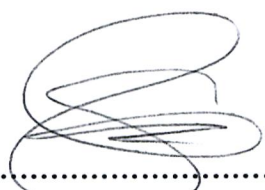
91. **The Regulations were, therefore, NOT submitted to the National Assembly within the statutory timeline contemplated by section 11(1) of the Statutory Instruments Act (*No. 23 of 2013*).**

4.0 COMMITTEE RECOMMENDATION

92. Pursuant to section 15 (1) of the Statutory Instruments Act and Standing Order 210 (4) (b) and having examined the instruments against the Constitution, the Interpretations and General Provisions Act (*Cap 2*), the Civil Aviation Act (*Cap 394*) and the Statutory Instruments Act (*No. 23 of 2013*), the Committee recommends to the House that the following instruments be **annulled in entirety** for contravening section 11(1) of the Statutory Instruments Act, 2013 –

- i. The Civil Aviation (Aircraft Accident and Incident Investigations) Regulations, 2018 (*Legal Notice No. 89 of 2018*);
- ii. The Civil Aviation (Air Worthiness) Regulations, 2018 (*Legal Notice No. 90 of 2018*);
- iii. The Civil Aviation (Safety Management) Regulations, 2018 (*Legal Notice No. 91 of 2018*);
- iv. The Civil Aviation (Air Operator Certification and Administration) Regulations, 2018 (*Legal Notice No. 92 of 2018*);
- v. The Civil Aviation (Approved Training Organizations) Regulations, 2018 (*Legal Notice No. 93 of 2018*);
- vi. The Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018 (*Legal Notice No. 94 of 2018*);
- vii. The Civil Aviation (Approved Personnel Licensing) Regulations, 2018 (*Legal Notice No. 95 of 2018*);
- viii. The Civil Aviation (Approved Maintenance Organizations) Regulations, 2018 (*Legal Notice No. 96 of 2018*);
- ix. The Civil Aviation (Operation of Aircraft- Helicopter) Regulations, 2018 (*Legal Notice No. 97 of 2018*);
- x. The Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018 (*Legal Notice No. 119 of 2018*);
- xi. The Civil Aviation (Units of Measurement to be used in Air and Ground Operations) Regulations, 2018 (*Legal Notice No. 120 of 2018*);

- xii. The Civil Aviation (Rules of the Air) Regulations, 2018 (Legal Notice No. 124 of 2018);
- xiii. The Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018 (Legal Notice No. 125 of 2018);
- xiv. The Civil Aviation (Operation of Aircraft for Commercial Air Transport) Regulations, 2018 (Legal Notice No. 126 of 2018);
- xv. The Civil Aviation (Certification, Licensing and Registration of Aerodromes) Regulations, 2018 (Legal Notice No. 129 of 2018);
- xvi. Civil Aviation (Instruments and Equipment) Regulations, 2018 (Legal Notice No. 131 of 2018);
- xvii. The Civil Aviation (Aeronautical Information Services) Regulations, 2018 (Legal Notice No. 132 of 2018);
- xviii. The Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018 (Legal Notice No. 133 of 2018);
- xix. The Civil Aviation (Aeronautical Charts) Regulations, 2018 (Legal Notice No. 134 of 2018);
- xx. The Civil Aviation (Communication Procedures) Regulations, 2018 (Legal Notice No. 135 of 2018);
- xxi. The Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018 (Legal Notice No. 136 of 2018);
- xxii. The Civil Aviation (Air Traffic Services) Regulations, 2018 (Legal Notice No. 137 of 2018);
- xxiii. The Civil Aviation (Radio Navigation Aids) Regulations, 2018 (Legal Notice No. 145 of 2018);
- xxiv. The Civil Aviation (Communications Systems) Regulations, 2018 (Legal Notice No. 146 of 2018);
- xxv. The Civil Aviation (Operation of Aircraft - General Aviation-Aeroplanes) Regulations, 2018 (Legal Notice No. 165 of 2018);
- xxvi. The Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018 (Legal Notice No. 166 of 2018)
- xxvii. The Civil Aviation (Licensing of Air Services) Regulations, 2018 (Legal Notice No. 167 of 2018)

for


Signed.....
HON. GLADYS BOSS SHOLLEI CBS MP
(CHAIRPERSON)

Date..... 20/11/2019

5.0 ANNEXURES

- 1. Adoption List**
- 2. Committee Minutes**
- 3. Legal Notices and the Explanatory Memorandum**

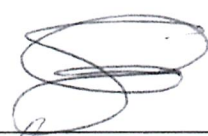

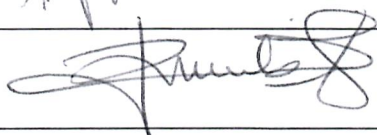
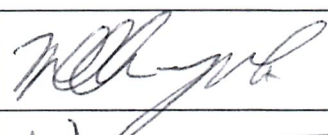


COMMITTEE ON DELEGATED LEGISLATION

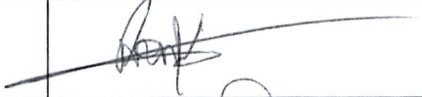



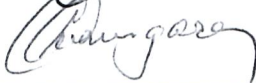
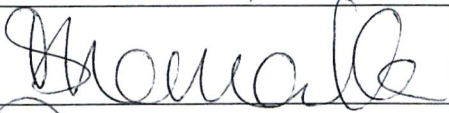
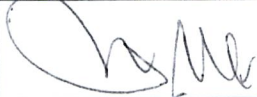
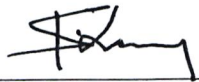
ADOPTION LIST

**REPORT ON THE ADOPTION OF THE 27 CIVIL AVIATION
REGULATIONS, 2018**

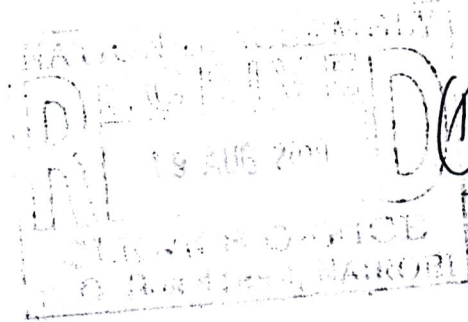
We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 19/11/2019

	HON. MEMBER	SIGNATURE
1.	Hon. Gladys Boss Shollei, CBS MP (Chairperson)	
2.	Hon. Fatuma Ali Gedi, MP (Vice Chairperson)	
3.	Hon. Isaac Waihenya Ndirangu, MP	
4.	Hon. Robert Mbui, MP	
5.	Hon. Alice Wahome, MP	
6.	Hon. Daniel Maanzo, MP	
7.	Hon. Muriuki Njagagua, MP	
8.	Hon. Martha Wangari, MP	
9.	Hon. Timothy Wanyonyi, MP	
10.	Hon. William Kamoti, MP	
11.	Hon. Patrick Kariuki Mariru, MP	

	HON. MEMBER	SIGNATURE
12.	Hon. Ronald Kiprotich Tonui, MP	
13.	Hon. William Kamket Kassait, MP	
14.	Hon. Munene Wambugu, MP	
15.	Hon. Charles Gimose, MP <i>Gideon Mulyungi, MP</i>	
16.	Hon. Abdi Koropu Tepo, MP	
17.	Hon. George Gitonga Murugara, MP	
18.	Hon. Jennifer Shamalla, MP	
19.	Hon. Muturi Kigano, MP	
20.	Hon. (Dr.) Wilberforce Oundo, MP	
21.	Hon. Sammy Seroney, MP	
22.	Hon. Tindi Mwale, MP	
23.	Hon. Alfred Sambu, MP	

Mr. Michael Sialai, EBS
Clerk
National Assembly
Parliament Building
P. O. Box 41842-00100
NAIROBI



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CNA
19/8/19

RE: PRGMULGATION OF CIVIL AVIATION REGULATIONS, 2018

Kenya Civil Aviation Authority is a State Corporation established by the Civil Aviation Act, 2013 with the mandate to plan, develop, manage, regulate and operate a safe, economically sustainable and efficient civil aviation system in Kenya.

Kenya is also a signatory to the Convention on International Civil Aviation, 1944 (Chicago Convention) and as such is required to comply with the nineteen (19) Annexes that contain Standards and Recommend Practices (SARPs) which are domesticated through the Kenya Civil Aviation Regulations (KCARS).

Kenya underwent the ICAO Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) from 2nd to 13th July, 2018 wherein KCAA was assessed on the level of effective implementation of the ICAO Standards and Recommended Practices.

One of the audit areas was the assessment of the Civil Aviation Regulations and how they adequately address and domesticate the SARPs. The Civil Aviation Regulations that were previously developed were in 2013 and the same had glaring deficiencies that would have occasioned findings and Significant Safety Concerns (SSCs) that would have had unparalleled impact on Kenya's aviation industry.

To remedy the glaring findings, KCAA embarked on review and promulgation of Civil Aviation Regulations 2018 and developed a set of 30 Regulations as listed below:

1. Civil Aviation (Airworthiness) Regulations, 2018
2. Civil Aviation (Helicopter Operations) Regulations, 2018
3. Civil Aviation (Air Operator Certification and Administration) Regulations, 2018
4. Civil Aviation (Operation Of Aircraft - General Aviation) Regulations, 2018
5. Civil Aviation (Operation Of Aircraft - Commercial Aviation) Regulations, 2018
6. Civil Aviation (Safety Management) Regulations, 2018

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7. Civil Aviation (Approved Training Organizations) Regulations, 2018
8. Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018
9. Civil Aviation (Approved Maintenance Organizations) Regulation, 2018
10. Civil Aviation (Personnel Licensing) Regulations, 2018
11. Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018
12. Civil Aviation (Construction Of Visual And Instrument Flight Procedures) Regulations, 2018
13. Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018
14. Civil Aviation (Rules of the Air) Regulations, 2018
15. Civil Aviation (Units Of Measurement To Be Used In Air And Ground Operations) Regulations, 2018
16. Civil Aviation (Air Traffic Services) Regulations, 2018
17. Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018
18. Civil Aviation (Radio Frequency Spectrum Utilization) Regulations, 2018
19. Civil Aviation (Communication Procedures) Regulations, 2018
20. Civil Aviation (Aeronautical Charts) Regulations, 2018
21. Civil Aviation (Aeronautical Information Services) Regulations, 2018.
22. Civil Aviation (Instruments and Equipment) Regulations, 2018.
- * 23. Civil Aviation (Aerodrome Design and Operations) Regulations, 2018
- * 24. Civil Aviation (Communication Systems) Regulations, 2018
25. Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018
26. Civil Aviation (Radio Navigation Aids) Regulations, 2018
27. Civil Aviation (Aerodrome Certification, Licensing and Registration) Regulations, 2018
- * 28. Civil Aviation (Heliports) Regulations, 2018
- * 29. Civil Aviation (Licensing of Air Services) Regulations, 2018.
30. Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2018

The above KCARs have since been gazetted as summarized in the Explanatory Memorandum attached hereto and is forwarded as per the requirements of the Statutory Instruments Act.

Yours *SIN CARAY,*



Capt. Gilbert M. Kibe
DIRECTOR GENERAL

No. 23 and 28 - MISSING

*Letters to call the new board
20/8/2019*

C.c. The Principal Secretary
State Department of Transport
Ministry of Transport, Infrastructure, Housing and Urban Development
P. O. Box 52692-00200
NAIROBI

MINUTES OF THE 65TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON THURSDAY, 14TH NOVEMBER, 2019 AT 11.30 A.M. IN THE SMALL DINING ROOM, NEW WING, MAIN PARLIAMENT BUILDINGS

PRESENT

1. The Hon. George Murugara, MP (Chairing)
2. The Hon. Patrick Mariru, MP
3. The Hon. Timothy Wanyonyi, MP
4. The Hon. Robert Mbui, MP
5. The Hon. Ronald Tonui, MP
6. The Hon. Kamoti Mwamkale, MP
7. The Hon. (Dr.) Wilberforce Oundo, MP
8. The Hon. Munene Wambugu, MP
9. The Hon. Martha Wangari, MP
10. The Hon. Jennifer Shamalla, MP
11. The Hon. Sammy Seroney, MP
12. The Hon. Kassait Kamket, MP

ABSENT WITH APOLOGY

1. **The Hon. Gladys Boss Shollei CBS MP** - **Chairperson**
2. **The Hon. Fatuma Gedi, MP** - **Vice Chairperson**
3. The Hon. Waihenya Ndirangu, MP
4. The Hon. Daniel Maanzo, MP
5. The Hon. Muriuki Njagagua, MP
6. The Hon. Alice Wahome, MP
7. The Hon. Muturi Kigano, MP
8. The Hon. Gideon Mulyungi, MP
9. The Hon. Abdi Koropu Tepo, MP
10. The Hon. Tindi Mwale, MP

ABSENT

The Hon. Alfred Sambu, MP

IN-ATTENDANCE

National Assembly Secretariat

1. Ms. Susan Maritim - Senior Clerk Assistant
2. Ms. Anne Kigoro - Research and Policy Analyst
3. Mr. Charles Ayari - Superintendent of Electronics (Audio)
4. Mr. Anthony Wamae - Serjeant at Arms
5. Ms. Mary Otieno - Office Superintendent

MIN.NO. /NA/CDL/2019/377 PRAYER AND PRELIMINARIES

Pursuant to Standing Order 188, the Members present unanimously elected Hon. George Murugara, MP, to chair the meeting. He thereafter called the meeting to order at 11.35 a.m. followed by the Prayer.

MIN.NO. /NA/CDL/2019/378 ADOPTION OF THE AGENDA

The Committee adopted the Agenda for the meeting without amendments.

MIN.NO. /NA/CDL/2019/379 CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the 64th sitting held on 12th November, 2019 were read and confirmed as true a record of the proceedings having been proposed by Hon. Timothy Wanyonyi, MP and seconded by Hon. Ronald Tonui, MP.

MIN.NO. /NA/CDL/2019/380 MATTERS ARISING

Members raised concern about frequent absence of the Chairperson and Vice Chairperson. It was not clear whether the Chairperson had the permission of the Speaker to be away in accordance with Standing Order 187 (1).

Members also noted with concern that the absence of the Chairperson and the Vice Chairperson has negatively impacted Committee business, e.g. tabling of Committee Reports which was not well coordinated in the absence of the two.

The total absence of Hon. Alfred Sambu, MP and frequent absence of Hon. Tindi Mwale, MP and Hon. Abdi Tepo, MP was also noted. The secretariat reported that the absence has been reported to the Committee on Selection in accordance with SO 187 (2).

MIN.NO. /NA/CDL/2019/382 CONSIDERATION OF THE 27 CIVIL AVIATION REGULATIONS, 2018 OF 2018

The Committee resolved to annul the 27 Civil Aviation Regulations of 2018 from the Ministry of Transport, Infrastructure, Housing & Urban Development which were submitted outside the statutory timelines contrary to section 11 (1) of the SI Act, 2013. The Regulations were published in May 2018 and submitted for tabling on 19th August, 2019.

The decision to annul the instrument was proposed by Hon. (Dr.) Wilberforce Oundo, MP and seconded by Hon. Sammy Seroney, MP.

MIN.NO. /NA/CDL/2019/383 CONSIDERATION OF THE CRITERIA FOR THE DETERMINATION OF THE ELECTRICITY REBATE 2019

The Committee deferred consideration of the Criteria for the Determination of the Electricity Rebate 2019 to Tuesday, 19th November, 2019.

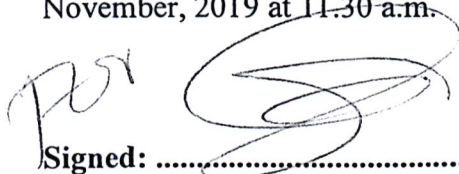
MIN.NO. /NA/CDL/2019/384 ANY OTHER BUSINESS

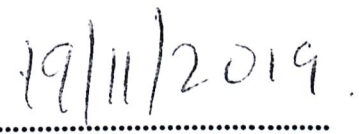
The following issues were raised-

1. Committee Reports: The Committee Members was reminded that the following Reports were listed for debate on the Order Paper on Thursday, 14th November, 2019 and were requested to avail themselves in the House to support the Motions –
 - a) The Report on the Consideration of the Value Added Tax (Amendment) Regulations, 2019 (*Approval*).
 - b) The Report on the Consideration of the Private Security (General) Regulations, 2019 (*Annulment*).
 - c) The Report on the Consideration of the Public Service Commission Regulations, 2019(*Annulment*).
 - d) The Report on the Consideration of the Political Parties (Funding) Regulations, 2019. (*Annulment of Regulation 18*).
2. **Breakfast meeting with the Law Society of Kenya** - The Committee was also reminded about the breakfast meeting to be hosted by the Law Society of Kenya. It was resolved that the meeting be held on Wednesday 20th November 2019 at 7.30 a.m. instead of Tuesday, 19th November, 2019 as earlier communicated. It was further resolved that the venue of the meeting must be PWD-accessible.

MIN.NO. /NA/CDL/2019/385 ADJOURNMENT

There being no other business, the meeting was adjourned at 12.15 p.m. until Tuesday, 19th November, 2019 at 11.30 a.m.


Signed:


Date:

HON. GLADYS BOSS SHOLLEI CBS MP
(CHAIRPERSON)



MINISTRY OF TRANSPORT AND INFRASTRUCTURE DEVELOPMENT

**EXPLANATORY MEMORANDUM ON LINKED STATUTORY
INSTRUMENTS BEING THE KENYA CIVIL AVIATION AUTHORITY
REGULATIONS, 2018**

Name of the statutory instruments:

Civil Aviation (Aircraft Accident And Incident Investigation) Regulations, 2018 Kenya Gazette Supplement No. 48 Legislative Supplement No. 18, Legal Notice No. 89
Civil Aviation (Airworthiness) Regulations, 2018 Kenya Gazette Supplement No. 99 Legislative Supplement No. 49, Legal Notice No. 90
Civil Aviation (Safety Management) Regulations, 2018 Kenya Gazette Supplement No. 50 Legislative Supplement No. 20, Legal Notice No. 91
Civil Aviation (Air Operator Certification And Administration) Regulations, 2018 Kenya Gazette Supplement No. 92 Legislative Supplement No. 51, Legal Notice No. 92

<p>Civil Aviation (Approved Training Organizations) Regulations, 2018 Kenya Gazette Supplement No. 92 Legislative Supplement No. 52, Legal Notice No. 93</p>
<p>Civil Aviation (Aircraft Nationality And Registration Marks) Regulations, 2018 Kenya Gazette Supplement No. 94 Legislative Supplement No. 53, Legal Notice No. 94</p>
<p>Civil Aviation (Personnel Licensing) Regulations, 2018 Kenya Gazette Supplement No. 95 Legislative Supplement No. 57, Legal Notice No. 95</p>
<p>Civil Aviation (Approved Maintenance Organizations) Regulations, 2018 Kenya Gazette Supplement No. 96 Legislative Supplement No. 58, Legal Notice No. 96</p>
<p>Civil Aviation (Operation Of Aircraft - helicopter) Regulations, 2018 Kenya Gazette Supplement No. 97 Legislative Supplement No. 26, Legal Notice No. 97</p>
<p>Civil Aviation (Aeronautical Search And Rescue) Regulations, 2018 Kenya Gazette Supplement No. 119 Legislative Supplement No. 68, Legal Notice No. 119</p>
<p>Civil Aviation (Units Of Measurement</p>

<p>To Be Used In Air And Ground Operations) Regulations, 2018 Kenya Gazette Supplement No. 120 Legislative Supplement No. 68, Legal Notice No. 120</p>
<p>Civil Aviation (Construction Of Visual And Instrument Flight Procedures) Regulations, 2018 Kenya Gazette Supplement No. 121 Legislative Supplement No. 68, Legal Notice No. 121</p>
<p>Civil Aviation (Rules Of The Air) Regulations, 2018 Kenya Gazette Supplement No. 71 Legislative Supplement No. 32, Legal Notice No. 124</p>
<p>Civil Aviation (Certification Of Air Navigation Service Providers) Regulations, 2018 Kenya Gazette Supplement No. 72 Legislative Supplement No. 32, Legal Notice No. 125</p>
<p>Civil Aviation (Operation Of Aircraft For Commercial Air Transport) Regulations, 2018 Kenya Gazette Supplement No. 72 Legislative Supplement No. 33, Legal Notice No. 126</p>
<p>Civil Aviation (Certification, Licensing And Registration Of Aerodromes) Regulations, 2018 Kenya Gazette Supplement No. 82 Legislative Supplement No. 82, Legal Notice No. 129</p>
<p>Civil Aviation (Instruments And</p>

<p>Equipment) Regulations, 2018 Kenya Gazette Supplement No. 84 Legislative Supplement No. 84, Legal Notice No. 131</p>
<p>Civil Aviation (Aeronautical Information Services) Regulations, 2018 Kenya Gazette Supplement No. 85 Legislative Supplement No. 39, Legal Notice No. 132</p>
<p>Civil Aviation (Surveillance And Collision Avoidance Systems) Regulations, 2018 Kenya Gazette Supplement No. 86 Legislative Supplement No. 40, Legal Notice No. 133</p>
<p>Civil Aviation (Aeronautical Charts) Regulations, 2018 Kenya Gazette Supplement No. 87 Legislative Supplement No. 41, Legal Notice No. 134</p>
<p>Civil Aviation (Aeronautical Charts) Regulations, 2018 Kenya Gazette Supplement No. 87 Legislative Supplement No. 41, Legal Notice No. 134</p>
<p>Civil Aviation (Communication Procedures) Regulations, 2018 Kenya Gazette Supplement No. 88 Legislative Supplement No. 42, Legal Notice No. 135</p>
<p>Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization)</p>

<p>Regulations, 2018 Kenya Gazette Supplement No. 88 Legislative Supplement No. 42, Legal Notice No. 135</p>
<p>Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018 Kenya Gazette Supplement No. 90 Legislative Supplement No. 44, Legal Notice No. 137</p>
<p>Civil Aviation (Radio Navigation Aids) Regulations, 2018 Kenya Gazette Supplement No. 92 Legislative Supplement No. 46, Legal Notice No. 145</p>
<p>Civil Aviation (Communication Systems) Regulations, 2018 Kenya Gazette Supplement No. 93 Legislative Supplement No. 47, Legal Notice No. 146</p>
<p>Civil Aviation (Operation Of Aircraft - General Aviation - Aeroplanes) Regulations, 2018 Kenya Gazette Supplement No. 100 Legislative Supplement No. 52, Legal Notice No. 165</p>
<p>Civil Aviation (Surveillance And Collision Avoidance Systems) Regulations, 2018 Kenya Gazette Supplement No. 86 Legislative Supplement No. 40, Legal Notice No. 133</p>
<p>Civil Aviation (Licensing Of Air Services) Regulations, 2018 Kenya Gazette Supplement No. 103</p>

Legislative Supplement No. 54,
Legal Notice No. 167

Name of the Parent Act : The Civil Aviation Act (No. 21 of 2013)
Enacted Pursuant to : Section 82 of the Civil Aviation Act
(No. 21 of 2013)
Name of the Ministry : Ministry of Transport and Infrastructure
Development
Gazette date : Various

1. Purpose of each of the Linked Statutory Instruments

(i) Civil Aviation (Airworthiness) Regulations, 2018

- a. Gazette date 4th May, 2018.
- b. These Regulations repeal and replace the Civil Aviation (Airworthiness) Regulations 2013.
- c. The Regulations provide for the standards to be observed to ensure an aircraft is airworthy before operations and applies to all Kenyan Registered Aircraft and Foreign aircraft operating in Kenya.

(ii) **Civil Aviation (Air Operator Certification and Administration) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. The Regulations repeal and replace the Civil Aviation (Air Operator Certification and Administration) Regulations, 2013.
- c. The Regulations prescribe requirements for the original certification and continued validity of an Air Operator Certificate (AOC) issued by KCAA and apply to air operators carrying passengers, cargo or mail for remuneration or hire whose principal place of business or permanent residence is located in Kenya.

(iii) **Civil Aviation (Approved Training Organizations) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Approved Training Organization) Regulations, 2013.
- c. The Regulations governs all entities that provide approved aviation training or courses that need specific approval from KCAA and offered to the general public.

(iv) **Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2013.
- c. The Regulations governs the registration and re-registration of aircraft and allocation of nationality marks. (the 5Y- mark for Kenyan aircraft)
- d. The Regulations domesticates ICAO Annex 7 Aircraft Nationality and Registration Marks.

(v) **Civil Aviation (Approved Maintenance Organizations) Regulation, 2018**

- a. Gazette date 4th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Approved Maintenance Organizations) Regulations, 2013.
- c. The Regulations governs the certification of organizations that undertake maintenance of aircraft.

(vi) **Civil Aviation (Safety Management) Regulations, 2018**

- a. Gazette date 4th May, 2018
- b. These are Regulations that were previously covered under the Civil Aviation (Safety Management Systems) Regulations, 2015.
- c. The Regulations govern safety management functions related to, or in direct support of, the safe operation of aircraft.
- d. The Regulations domesticates ICAO Annex 19.

(vii) **Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2013.
- c. The Regulations govern the conduct of all aircraft accidents and investigations in Kenya.
- d. The Regulations domesticates ICAO Annex 7.

(viii) **Civil Aviation (Personnel Licensing) Regulations, 2018**

- a. Gazette date 10th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Personnel Licensing) Regulations, 2013.
- c. The Regulations governs the issuance of the various types of licenses to aviation personnel such as pilots, air traffic controllers and aircraft engineers.
- d. The Regulations domesticates ICAO Annex 1 Personnel Licensing.

(ix) **Civil Aviation (Helicopter Operations) Regulations, 2018**

- a. Gazette date 16th May, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
- c. The Regulations governs all entities that undertake commercial operations of helicopters in and out of Kenya.
- d. The Regulations domesticates ICAO Annex 6 Part III - Operation of Aircraft - Commercial Helicopters.

(x) **Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018**

- a. Gazette date 31st May, 2018.
- b. These are new Regulations that were previously covered under the Section 72 to 81 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to all aircraft requiring Aeronautical Search and Rescue services and to persons or organizations responsible for the maintenance and operation of Aeronautical Search and Rescue services in

Kenya and in areas over the high seas to which Kenya has been given responsibility under the regional air navigation plan.

- d. The Regulations domesticates ICAO requirements for aircraft search and rescue operations.

(xi) **Civil Aviation (Construction Of Visual And Instrument Flight Procedures) Regulations, 2018**

- a. Gazette date 31st May, 2018
- b. These are new Regulations that were previously covered under the Section 95 to 98 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to all entities providing Flight Procedure Design Services within certificated airspaces and at aerodromes for civil aviation purposes.
- d. The Regulations govern activities relating to specification, parameters of construction of visual and instrument flight procedures.

(xii) **Civil Aviation (Units Of Measurement To Be Used In Air And Ground Operations) Regulations, 2018**

- a. Gazette date 31st May, 2018
- b. These are new Regulations that were previously covered under the Section 26 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern the scientific parameters to and units used in aviation.
- d. The Regulations domesticates ICAO Annex 5 Units of Measurement to be used in Air and Ground Operations.

(xiii) **Civil Aviation (Operation Of Aircraft - Commercial Air Transport Aeroplanes) Regulations , 2018**

- a. Gazette date 8th June, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
- c. The Regulations governs all entities that undertake commercial air transport in and out of Kenya.
- d. The Regulations provide for standards to be observed by all operators undertaking commercial operations in Kenya.
- e. The Regulations domesticates ICAO Annex 6 Part I - Operation of Aircraft - Commercial Air Transport Aeroplanes.

(xiv) **Civil Aviation (Rules of the Air) Regulations, 2018**

- a. Gazette date 8th June, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Rules of the Air) Regulations, 2013 and are applicable to:
 - i. Every person and every aircraft, including state aircraft (government owned, military and police aircraft in Kenya).
 - ii. They apply to all aircraft bearing the nationality and registration marks of Kenya, wherever it may be, to the extent that they do not conflict with the rules published by the State having jurisdiction over the territory overflown.
 - iii. They also apply in full to all aircraft flying over the high seas.
- c. The Regulations governs the flying and maneuvering of aircraft while in the airspace that is a Kenya shared resource.
- d. The Regulations domesticates ICAO Annex 2 Rules of the Air.

(xv) **Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018**

- a. Gazette date 8th June, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern entities that provide or seek to provide air navigation services within designated air spaces and at aerodromes.
- d. The Regulations provide for provision of air navigation services to aviation users.

(xvi) **Civil Aviation (Aerodrome Certification, Licensing and Registration) Regulations, 2018**

- a. Gazette date 22nd June, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.
- c. The Regulations outlines the various types of aerodromes and conditions to be met by an applicant who intends to set up any of the aerodrome categories.

(xvii) **Civil Aviation (Aeronautical Information Services) Regulations, 2018.**

- a. Gazette date on 27th June, 2018.
- b. These are new Regulations that were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to all aeronautical information services providers.
- d. The Regulations domesticates ICAO Annex 15 Aeronautical Information Services.

(xviii) Civil Aviation (Instruments and Equipment) Regulations, 2018.

- a. Gazette date 28th June, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Instruments and Equipment) Regulations, 2013.
- c. The Regulations prescribe the instruments and equipment required on an aircraft to enable the undertaking of safe operations.
- d. The Regulations govern the standards applicable on all instruments and equipment carried on board an aircraft.
- e. The Regulations domesticates ICAO requirements for an aircraft to be deemed airworthy.

(xix) Civil Aviation (Air Traffic Services) Regulations, 2018

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 28 to 44 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern the various activities relating to provision of air traffic services related to aerodrome control service; approach control service; approach radar control service; area control service; en-route radar control service; flight information service; and alerting service.
- d. The Regulations shall not apply to a person providing air traffic services in the course of his or her duties to state aircraft.
- e. The Regulations domesticates ICAO Annex 11 Air Traffic Services.

(xx) **Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 45 to 64 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern systems that observe surveillance on all aircrafts as well as ensuring minimal chances of collisions.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol IV Surveillance and Collision Avoidance Systems.

(xxi) **Civil Aviation (Radio Frequency Spectrum Utilization) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 45 to 64 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern utilization of radio frequency spectrums used in aviation.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol V Radio Frequency Spectrum Utilization.

(xxii) **Civil Aviation (Communication Procedures) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 55 of the Civil Aviation (Air Navigation Services) Regulations, 2013.

- c. The Regulations govern communication procedures used by all airmen in aviation.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol II Communication Procedures including those with PANS Status.

(xxiii) Civil Aviation (Aeronautical Charts) Regulations, 2018

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to a person or entity providing an aeronautical cartographic service within designated airspaces and at aerodromes for civil aviation purposes in Kenya.
- d. The Regulations govern the production, publishing and standards for the development of all charts used in an aircraft.
- e. The Regulations domesticates ICAO Annex 4 Aeronautical Charts.

(xxiv) Civil Aviation (Communication Systems) Regulations, 2018

- a. Gazette date on 3rd July, 2018.
- b. These are new Regulations that were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to a person or entity providing Communication, Navigation and Surveillance Services within designated air spaces and at aerodromes.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol III Communication Systems.

(xxv) **Civil Aviation(Meteorology Services for Air Navigation) Regulations, 2018**

- a. Gazette date on 10th July, 2018.
- b. These are new Regulations that were previously covered under the Section 82 to 94 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations provides for meteorology services provision and apply to persons or entities providing Meteorological services for air navigation services within Kenya air spaces and at aerodromes.
- d. The Regulations domesticates ICAO Annex 3.

(xxvi) **Civil Aviation (Radio Navigation Aids) Regulations, 2018**

- a. Gazette date on 10th July, 2018.
- b. These are new Regulations that were previously covered under the Section 49 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations provides for radio navigation aids used by an aircraft.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol I Radio Navigation Aids.

(xxvii) **Civil Aviation (Operation Of Aircraft - General Aviation) Regulations, 2018**

- a. Gazette date 10th July, 2018.

- b. These are new Regulations that were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
- c. The Regulations governs all entities that undertake operation of aircrafts for private or non-commercial purposes.
- d. The Regulations domesticates ICAO Annex 6 Part III - Operation of Aircraft – General Aviation.

(xxviii) **Civil Aviation (Licensing of Air Services) Regulations, 2018.**

- a. Gazette date 18th July, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Licensing of Air Services) Regulations, 2009.
- c. The Regulations governs the issuance of Air Service Licenses that enable and operator to operate a specific route. The regulations provide for the economic and business plan requirements for all operators who intend to undertake operations in Kenya.

(xxix) **Civil Aviation (Aerodrome Design and Operations) Regulations, 2018**

- a. These are new Regulations that were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.
- b. The Regulations outlines the technical requirements for any aerodrome and further outline the minimum operational requirements upon licensing of an aerodrome.
- c. The Regulations domesticates ICAO Annex 14 Aerodromes, Volume I Design and Operations.

(xxx) **Civil Aviation (Heliports) Regulations, 2018**

- a. These are new Regulations that were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.

- b. The Regulations govern all heliports in Kenya and outline the technical requirements for any heliport and further outline the minimum operational requirements upon licensing of a heliport.
- c. The Regulations domesticates ICAO Annex 14 Aerodromes Volume II Heliports.

2. Collective Purpose the Linked Statutory Instruments

The purpose of the linked statutory instruments (KCARS 2018) is to provide the regulatory framework to facilitate the safe, controlled and regulated operations of aircraft in the country.

Kenya as a signatory to the Convention on International Civil Aviation (Chicago Convention) is required to apply International Standards and Recommended Practices (SARPs). The SARPs are contained in Annexes to the Chicago Convention.

The KCARS 2018 lay down rules and requirements for the safe and secure conduct of aviation activities in Kenya.

The KCARS allow Kenya to fulfil international obligations for safety of international air transport systems.

The combined regulatory framework domesticates the International Standards and Recommended Practices that are up to date. i.e. November, 2018.

3. Legislative Context

The Constitution of Kenya Article 2(6) provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under the Constitution.

Kenya is a signatory to the Convention on International Civil Aviation (Chicago Convention) and as such is required to comply with the requirements that includes the Annexes to the Chicago Convention that are domesticated through the Kenya Civil Aviation Regulations, 2018 (KCARS).

The Civil Aviation Act, 2013 as amended by the Civil Aviation (Amendment) Act 2016 allows for the making of Regulations to effectively and efficiently manage aviation in Kenya.

The KCARs are a reflection of the international Standards and Recommended Practices.

4. Policy Background

The Civil Aviation Act, 2013 as amended by the Civil Aviation (Amendment) Act, 2016 seeks to provide for the control, regulation and orderly development of civil aviation in Kenya.

The international standards and recommended practices in the aviation industry that are domesticated through the KCARs are promulgated by the Cabinet Secretary to ensure orderly development and promotion of aviation safety and security.

The KCARs are a reflection of the latest versions of the ICAO Annexes. This was confirmed by the recent ICAO Universal Safety Oversight Program – Continuous Monitoring Approach (USOAP-CMA) Audit on Kenya that was undertaken between 2nd and 12th July, 2018 culminating in a score of 78.02% from the 2013 ICVM Audit where Kenya scored 78.57%.

The enactment of KCARs 2018 was extremely instrumental in the enabling of Kenya pass the USOAP-CMA Audit as well as avoid findings in the regulatory arm of the CAA that would have occasioned the grounding of all international flights. The KCARs 2018 provided the legal framework from which all the critical elements in aviation emanate from.

5. Consultation Outcome

The Kenya Civil Aviation Authority held stakeholders consultations from the 12th to 14th July, 2017 in Nairobi where input was received from the aviation industry on the KCARs.

The Accident and Incident Investigation Department that is domiciled at the Ministry of Transport undertook its stakeholder sensitization on 10th October, 2017.

KCAA was in addition receiving written input from the stakeholders who were not able to participate in the stakeholder's forum.

The comments and input from the stakeholders was compiled by the KCAA team from 17th to 29th July, 2017.

The Final versions were posted on the KCAA website for input (if any) on the final version of the Regulations.

The stakeholders were in support of the KCARs structure that was adopted whereby, for the first time, the Regulations were able to address specific areas of the industry, for example, Operation of Aircrafts was split into three i.e. Commercial Operations, General Operations and Helicopter Operations.

The list of attendees and the report of the consultations is attached as Appendix 1.

6. Impact

KCAA has been implementing the KCARs 2018 over a transitory period of 1 year with an aim of identifying the areas of success and challenges occasioned by the transition from KCARs 2013 to KCARs 2018.

This is a continuous process whose results will be compiled and Kenya will be able to report back to the International Civil Aviation Organization on implementation as well as file differences where applicable.

7. Monitoring and review

KCAA is closely monitoring implementation and has identified areas and events that may warrant review i.e.

- a) Upon receipt and assessment of amendments to relevant ICAO Annexes and PANS that necessitate a change of applicable KCARs 2018;
- b) Upon amendment to Civil Aviation Act that necessitates amendment to KCARs 2018;

- c) Upon receipt of request/information from stakeholders regarding the application and/or implementation of the regulation that promote safe and secure aviation operations;
- d) Significant change in the size and complexity of the aviation system in Kenya;
- e) Change in technology that warrant to review of KCARs 2018;
- f) Review for purposes of enhancing efficiency of the safety oversight system.

8. Contact

The contact person at Kenya Civil Aviation Authority, Capt. Gilbert M. Kibe (gmkibe@kcaa.or.ke, +254 722 51467) or the Director Aviation Safety, Security and Regulations, Capt. Tom Ogenche (togenche@kcaa.or.ke , +254 722 522 340) may be contacted in case of any questions or clarifications.