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THE CIVIL AVIATION ACT

(No. 21 of 2013)

THE CIVIL AVIATION (SAFETY MANAGEMENT)
REGULATIONS, 2018

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THE CIVIL AVIATION ACT

(No. 21 of 2013)

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 makes the following Regulations—

THE CIVIL AVIATION (SAFETY MANAGEMENT)
REGULATIONS, 2018

PART I—PRELIMINARY

1. This Regulations may be cited as the Civil Aviation (Safety Management) Regulations, 2018.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“accident” means an occurrence associated with the operation of an aircraft which, in the case of a manned aircraft, takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, or in the case of an unmanned aircraft, takes place between the time the aircraft is ready to move with the purpose of flight until such time as it comes to rest at the end of the flight and the primary propulsion system is shut down, in which—

(a) a person is fatally or seriously injured as a result of—

- (i) being in the aircraft;
- (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
- (iii) direct exposure to jet blast,

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

(b) the aircraft sustains damage or structural failure which—

- (i) adversely affects the structural strength, performance or flight characteristics of the aircraft; and
- (ii) which would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to a single engine, (including its cowlings or accessories), to propellers, wing tips, antennas, probes, vanes, tires, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (such as small dents or puncture holes), or for minor damages to main rotor blades, tail rotor blades, landing gear, and those resulting from hail or bird strike (including holes in the radome); or

(c) the aircraft is missing or is completely inaccessible.

“Act” means the Civil Aviation Act, 2013;

No. 21 of 2013.

“aeroplane” means a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

“aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“Authority” means the Kenya Civil Aviation Authority established by section 4 of the Act;

“general aviation operation” means an aircraft operation other than a commercial air transport operation or an aerial work operation;

“hazard” means a condition or an object with the potential to cause or contribute to an aircraft incident or accident;

“helicopter” means a heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes;

“incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“industry codes of practice” means Guidance material developed by an industry body, for a particular sector of the aviation industry to comply with the requirements of the International Civil Aviation Organization’s Standards and Recommended Practices, other aviation safety requirements and the best practices deemed appropriate;

“large aeroplane” means an aeroplane of a maximum certificated take-off mass of over 5 700 kg;

“operational personnel” means personnel involved in aviation activities who are in a position to report safety information;

“safety” means the state in which risks associated with aviation activities, related to, or in direct support of the operation of aircraft, are reduced and controlled to an acceptable level;

“safety data” means a defined set of facts or set of safety values collected from various aviation-related sources, which is used to maintain or improve safety;

“safety information” means safety data processed, organized or analyzed in a given context so as to make it useful for safety management purposes;

“Safety Management System (SMS)” means a systematic approach to managing safety, including the necessary organizational structures, accountabilities, policies and procedures;

“safety oversight” means a function performed by the Authority to ensure that individuals and organizations performing an aviation activity comply with safety-related national laws and regulations.

“safety performance” means a State or a service provider’s safety achievement as defined by its safety performance targets and safety

performance indicators;

“safety performance indicator” means a data-based parameter used for monitoring and assessing safety performance;

“safety performance target” means the State or service provider’s planned or intended target for a safety performance indicator over a given period that aligns with the safety objectives;

“safety risk” means the predicted probability and severity of the consequences or outcomes of a hazard;

“serious injury” means an injury which is sustained by a person in an accident and which—

- (a) requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received;
- (b) results in a fracture of any bone (except simple fractures of fingers, toes or nose);
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to any internal organ;
- (e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface; or
- (f) involves verified exposure to infectious substances or injurious radiation;

“State of Design” means the State having jurisdiction over the organization responsible for the type design;

“State of Manufacture” means the State having jurisdiction over the organization responsible for the final assembly of the aircraft;

“State of Registry” means the State on whose register the aircraft is entered;

“State of the Operator” means the State in which the operator’s principal place of business is located or, if there is no such place of business, the operator’s permanent residence;

“State Safety Programme (SSP)” means an integrated set of regulations and activities aimed at improving safety.

“Surveillance” means the State activities through which the Authority proactively verifies through inspections and audits that aviation license, certificate, authorization or approval holders continue to meet the established requirements and function at the level of competency and safety required by the State.

3. (1) These Regulations shall apply to safety management functions related to, or in direct support of, the safe operation of aircraft.

Application.

(2) Except where otherwise specified, these Regulations shall not

apply to, such areas including, but not limited to, occupational safety, environmental protection, customer service or product quality.

PARTII—STATE SAFETY MANAGEMENT RESPONSIBILITIES

4. (1) The Authority shall establish, and maintain a State Safety Programme (SSP) commensurate with the size and complexity of the Kenya's civil aviation system.

Establishment of State Safety Programme.

(2) The SSP established under sub-regulation (1) shall be founded on the State Safety Oversight (SSO) system which shall be implemented in accordance with the following critical elements —

- (a) the provisions of the Act;
- (b) the regulations made under the Act and as periodically reviewed;
- (c) State systems and functions;
- (d) qualified technical personnel;
- (e) technical guidance, tools and safety-critical information;
- (f) licensing, certification, authorization and approval obligations;
- (g) surveillance obligations; and
- (h) resolution of safety issues.

(3) The framework for the implementation and maintenance of the SSO under sub-regulation (2) shall be as specified in the First Schedule to these Regulations.

5. (1) As part of the SSP the Authority shall establish a safety policy, objectives and resources that accord to critical elements in regulation 1 (2) (a), (b), (c) (d) and (e).

Safety policy, objectives and resources.

(2) The Authority shall identify, define and document the requirements, obligations, functions and activities regarding the establishment and maintenance of the SSP, including the directives to plan, organize, develop, maintain, control and continuously improve the SSP in a manner that meets Kenya's safety objectives.

(3) The safety policy, objectives and resources shall reflect commitment regarding safety, facilitate the promotion of a safety culture in the aviation industry and be periodically reviewed to ensure that they remain relevant and appropriate.

6. (1) As part of the SSP the Authority shall establish and maintain mechanisms, including processes to manage safety risks in—

State safety risk management.

- (a) licensing, certification, authorization and approval obligations in accordance with regulation 1 (2) (f);
- (b) Safety Management System obligations in accordance with Part III of these Regulations;
- (c) accident and incident investigation in accordance with

Civil Aviation (Accident and Incident investigation) Regulations;

- (d) hazard identification and safety risk assessment; and
- (e) resolution of safety issues in accordance with regulation 4 (2) (h).

(2) In furtherance of the obligations in sub-regulation 6 (1) (b), the Authority shall—

- (a) require that the service providers listed under regulation 9 (1) implement a Safety Management System (SMS);
- (b) ensure that safety performance indicators and targets established by service providers and operators are acceptable to the Authority;
- (c) establish criteria for implementation of an SMS by international general aviation operators of large or turbojet aeroplanes conducting operations in accordance with the Civil Aviation (Operation of Aircraft-International General Aviation –Aeroplanes) Regulations; and
- (d) ensure that the criteria in (c) above addresses the framework and elements in the Second Schedule to these regulations.

(3) In furtherance of the obligation under sub-regulation (1) (d), the Authority shall—

- (a) establish and maintain a process to identify hazards from collected safety data; and
- (b) develop and maintain a process that ensures the assessment of safety risks associated with identified hazards.

7. (1) As part of the SSP the Authority shall develop and implement procedures and processes for state safety assurance in—

Safety assurance.

- (a) surveillance obligations in accordance with regulation 4 (2) (g); and
- (b) State safety performance.

(2) Without prejudice to sub-regulation (1) (a) the Authority shall prioritise inspections, audits and surveys towards areas of greater safety concern or need and periodically review the safety performance of individual service providers.

(3) Without prejudice to the generality and in furtherance of the obligation in sub-regulation (1) (b) the Authority shall—

- (a) establish acceptable level of safety performance to be achieved through the SSP;
- (b) develop and maintain a process to evaluate the effectiveness of actions taken to manage safety risks and resolve safety issues; and

- (c) periodically evaluate the effectiveness of the SSP to maintain or continuously improve the overall level of safety performance.

8. (1) As part of the SSP the Authority shall develop state safety promotion by means of— Safety promotion

- (a) internal communication and dissemination of safety information; and
- (b) external communication and dissemination of safety information.

(2) In furtherance of the obligation in sub-regulation (1) the Authority shall promote safety awareness and the sharing and exchange of safety information to support the development of a positive safety culture that fosters the maintenance and improvement of safety.

PART III—SAFETY MANAGEMENT SYSTEMS

9. (1) The following service providers shall implement a Safety Management System (SMS) — Safety Management System (SMS) obligations.

- (a) approved training organisations, certified in accordance with the Civil Aviation (Approved training Organisations) Regulations, that are exposed to safety risks related to aircraft operations during the provision of their services;
- (b) operators of aeroplanes or helicopters authorized to conduct international commercial air transport in accordance with the Civil Aviation (Air Operator Certification and Administration) Regulations;
- (c) approved maintenance organisations providing services to operators of aeroplanes or helicopters engaged in international commercial air transport in accordance with the Civil Aviation (Air Operator Certification and Administration) Regulations;
- (d) organisations responsible for the type design or manufacture of aircraft, engines or propellers in accordance with the Civil Aviation (Airworthiness) Regulations;
- (e) Air Traffic Services providers in accordance with the Civil Aviation (Certification of Air Navigation Service Providers) Regulations; and
- (f) operators of certified aerodromes in accordance with the Civil Aviation (Aerodromes) Regulations.

(2) A service provider's SMS referred to in sub-regulation (1) shall be—

- (a) acceptable to the Authority;
- (b) commensurate with the size of the service provider and the complexity of its aviation products or services; and
- (c) established in accordance with the framework elements

contained in the Second Schedule to these regulations.

(3) An international general aviation operator conducting operations of large or turbojet aeroplane in accordance with Civil Aviation (Operation of Aircraft – International General Aviation - Aeroplanes) Regulations, shall implement a Safety Management System (SMS) that shall be commensurate with the size and complexity of the operation and that shall meet the criteria established by the Authority.

(4) A service provider shall develop a plan to facilitate the implementation of the service provider's SMS.

(5) The Safety Management System established by a service provider under sub-regulation (1) shall have safety performance indicators and targets acceptable to the Authority.

10. The Authority shall develop and issue an enforcement policy that specifies the conditions and circumstances under which service providers with an SMS are allowed to deal with, and resolve, events involving certain safety issues, internally, within the context of their SMS and to the satisfaction of the Authority.

Enforcement policy.

PART IV – SAFETY DATA AND SAFETY INFORMATION COLLECTION, PROCESSING ANALYSIS, PROTECTION, SHARING AND EXCHANGE

11. (1) The Authority shall establish a safety data collection and processing system (SDCPS) to capture, store, aggregate and enable the analysis of safety data and safety information.

Safety data collection and processing systems.

(2) The Authority shall establish a mandatory safety reporting system that includes the reporting of incidents.

(3) The Authority shall establish a voluntary safety reporting system to collect safety data and safety information not captured by mandatory safety reporting systems.

(4) The Authority may grant other organisations responsible for the implementation of SSP access to the SDCPS referred to in sub-regulation (1) in accordance with the Third Schedule to these regulations.

(5) The database systems established under sub-regulation (1) shall use standardized taxonomy to facilitate safety information sharing and exchange.

12. (1) A service provider shall notify and make mandatory occurrence reports on accidents, serious incidents, incidents and other safety related occurrences to the Authority within 24 hours, in the case of accident, 48 hours in the case of serious incidents and 72 hours in the case of incidents and other safety related occurrences.

Mandatory safety reporting.

(2) Service providers shall, as part of their Safety Management System, be responsible for investigating all incidents that occur during their operations.

(3) Accidents and serious incidents are investigated by the Chief

Investigator of Air Accident who may, at his discretion, delegate investigations of certain serious incidents to the Authority.

13. (1) A service provider shall establish a voluntary safety reporting system to facilitate collection of information on actual or potential safety deficiencies that may not be captured by the mandatory safety reporting system.

Voluntary safety reporting.

(2) A voluntary safety reporting system established by a service provider shall be non-punitive and shall afford protection to the sources of the information.

(3) An organization's voluntary and confidential reporting system shall, as minimum, define—

- (a) the objective of the reporting system;
- (b) the scope of the aviation sectors or areas covered by the system;
- (c) who can make a voluntary report;
- (d) when to make such a report;
- (e) how the reports are processed; and
- (f) the contacting (name of system) manager.

14. The Authority shall establish and maintain a process to analyse the safety data and safety information from the SDCPS and associated safety databases.

Safety data and safety information analysis.

15. (1) Safety data or information obtained, gathered voluntarily or otherwise given to the Authority under the Act or these Regulations shall not be put to any inappropriate use.

Safety data and safety information protection.

(2) The Authority shall accord protection to safety data captured by, and safety information derived from, mandatory and voluntary safety reporting systems under regulation 11 and related sources in accordance with the Third Schedule to these Regulations.

(3) The Authority shall not make available or use safety data or safety information collected, stored or analysed in accordance with regulation 11 or 14 for purposes other than maintaining or improving safety, unless a competent authority determines, in accordance with the Third Schedule to these regulations, that the principle of exception applies.

(4) Notwithstanding sub-regulation (3), the Authority shall not be prevented from using safety data or safety information to take any preventive, corrective or remedial action that is necessary to maintain or improve aviation safety.

(5) The Authority shall take necessary measures, including the promotion of a positive safety culture, to encourage safety reporting through the systems referred to in sub-regulation 11 (2) and (3).

16. (1) If the Authority, in the analysis of the information contained in its SDCPS, identifies safety matters considered to be of

Safety information sharing and

interest to other States, the Authority shall forward such safety information to that State as soon as possible. exchange.

(2) Prior to sharing information referred to in sub-regulation (1), the Authority shall agree with such States on the level of protection and conditions on which safety information will be shared in accordance with Third Schedule to these Regulations.

(3) The Authority shall promote the establishment of safety information sharing or exchange networks among users of the aviation system, and facilitate the sharing and exchange of safety information, unless any Kenyan law provides otherwise.

PART V – GENERAL PROVISIONS

17. A service provider who fails to comply with the provision of these Regulations, may have his license, certificate, or authorization suspended or revoked in addition to any other administrative sanction as may be prescribed in the Act or these Regulations.

Administrative sanctions.

18. The Civil Aviation (Safety Management) Regulations, 2015 are revoked.

19. All acceptances, authorisations or certificates issued or granted by the Authority before the commencement of these regulations shall continue to be in force to the extent that the terms and conditions thereof are not inconsistent with the provisions of these regulations or until expiry or are revoked, annulled or replaced.

Saving and transitional provision

FIRST SCHEDULE

{(r.4 (3))}

STATE SAFETY OVERSIGHT (SSO) SYSTEM CRITICAL ELEMENTS (CEs)

1. Primary aviation legislation (CE-1)

1.1 The Civil Aviation Act (No. 21 of 2013) is a comprehensive and effective aviation law, commensurate with the size and complexity of Kenya's aviation activity and consistent with the requirements contained in the Convention on International Civil Aviation, to enable the oversight and management of civil aviation safety and the enforcement of regulations.

1.2 The Act provides personnel performing safety oversight functions access to the aircraft, operations, facilities, personnel and associated records, as applicable, of individuals and organizations performing an aviation activity.

2. Specific operating regulations (CE-2)

2.1 Specific regulations address, at a minimum, national requirements emanating from the primary aviation legislation, for standardized operational procedures, products, services, equipment and infrastructures in conformity with the Annexes to the Convention on International Civil Aviation.

3. State system and functions (CE-3)

3.1 There are established authorities or agencies, as appropriate, supported by sufficient and qualified personnel and provided with adequate financial resources for the management of safety.

3.2 The authorities or agencies have stated safety functions and objectives to fulfil their safety management responsibility.

3.3 The Authority should take necessary measures, such as remuneration and conditions of service, to ensure that qualified personnel performing safety oversight functions are recruited and retained.

3.4 The Authority shall ensure that personnel performing safety oversight functions are provided with guidance that addresses ethics, personal conduct and the avoidance of actual or perceived conflicts of interest in the performance of official duties.

3.5 The Authority should use a methodology to determine their staffing requirements for personnel performing safety oversight functions, taking into account the size and complexity of the aviation activities in their State.

4. Qualified technical personnel (CE-4)

4.1 The Authority shall establish minimum qualification requirements for the technical personnel performing safety-related functions and provide for appropriate initial and recurrent training to maintain and enhance their competence at the desired level.

4.2 The Authority shall implement a system for the maintenance of training records for technical personnel.

5. Technical guidance, tools and provision of safety-critical information (CE-5)

5.1 The Authority shall provide appropriate facilities, comprehensive and up-to-date technical guidance material and procedures, safety-critical information, tools and equipment, and transportation means, as applicable, to the technical personnel to enable them to perform their safety oversight functions effectively and in accordance with established procedures in a standardized manner.

5.2 The Authority shall provide technical guidance to the aviation industry on the implementation of relevant regulations.

6. Licensing, certification, authorization and approval obligations (CE-6)

6.1 The Authority shall implement documented processes and procedures to ensure that individuals and organizations performing an aviation activity meet the established requirements before they are allowed to exercise the privileges of a licence, certificate, authorization or approval to conduct the relevant aviation activity.

7. Surveillance obligations (CE-7)

7.1 The Authority shall implement documented surveillance processes, by defining and planning inspections, audits and monitoring activities on a continuous basis, to proactively assure that aviation licence, certificate, authorization and approval holders continue to meet the established requirements. This includes the surveillance of personnel designated by the Authority to perform safety oversight functions on its behalf.

8. Resolution of safety issues (CE-8)

8.1 The Authority shall use a documented process to take appropriate actions, up to and including enforcement measures, to resolve identified safety issues.

8.2 The Authority shall ensure that identified safety issues are resolved in a timely manner through a system which monitors and records progress, including actions taken by individuals and organizations performing an aviation activity in resolving such issues.

SECOND SCHEDULE {(r.6 (2)(d); 9(2)(c)}

FRAMEWORK FOR A SAFETY MANAGEMENT SYSTEM (SMS)

This Schedule specifies the framework for the implementation and maintenance of an SMS. The framework comprises four components and twelve elements as the minimum requirements for SMS implementation:

1. Safety policy and objectives
 - 1.1 Management commitment
 - 1.2 Safety accountability and responsibilities
 - 1.3 Appointment of key safety personnel
 - 1.4 Coordination of emergency response planning
 - 1.5 SMS documentation
2. Safety risk management
 - 2.1 Hazard identification
 - 2.2 Safety risk assessment and mitigation
3. Safety assurance
 - 3.1 Safety performance monitoring and measurement
 - 3.2 The management of change
 - 3.3 Continuous improvement of the SMS

4. Safety promotion

4.1 Training and education

4.2 Safety communication

1. Safety policy and objectives

1.1 Management commitment

1.1.1 The service provider shall define its safety policy in accordance with international and national requirements. The safety policy shall—

- (a) reflect organizational commitment regarding safety, including the promotion of a positive safety culture;
- (b) include a clear statement about the provision of the necessary resources for the implementation of the safety policy;
- (c) include safety reporting procedures;
- (d) clearly indicate which types of behaviours are unacceptable related to the service provider's aviation activities and include the circumstances under which disciplinary action would not apply;
- (e) be signed by the accountable executive of the organization;
- (f) be communicated, with visible endorsement, throughout the organization; and
- (g) be periodically reviewed to ensure it remains relevant and appropriate to the service provider.

1.1.2 Taking due account of its safety policy, the service provider shall define safety objectives. The safety objectives shall—

- (a) form the basis for safety performance monitoring and measurement as required by 3.1.2;
- (b) reflect the service provider's commitment to maintain or continuously improve the overall effectiveness of the SMS;
- (c) be communicated throughout the organization; and
- (d) be periodically reviewed to ensure they remain relevant and appropriate to the service provider.

1.2 Safety accountability and responsibilities

The service provider shall—

- (a) identify the accountable executive who, irrespective of other functions, is accountable on behalf of the organization for the implementation and maintenance of an effective SMS;
- (b) clearly define lines of safety accountability throughout the organization, including a direct accountability for safety on the part of senior management;
- (c) identify the responsibilities of all members of management, irrespective of other functions, as well as of employees, with respect to the safety performance of the organization;

- (d) document and communicate safety accountability, responsibilities and authorities throughout the organization; and
- (e) define the levels of management with authority to make decisions regarding safety risk tolerability.

1.3 Appointment of key safety personnel

The service provider shall appoint a safety manager who is responsible for the implementation and maintenance of the SMS. Depending on the size of the service provider and the complexity of its aviation products or services, the responsibilities for the implementation and maintenance of the SMS may be assigned to one or more persons, fulfilling the role of safety manager, as their sole function or combined with other duties, provided these do not result in any conflicts of interest.

1.4 Coordination of emergency response planning

The service provider required to establish and maintain an emergency response plan for accidents and incidents in aircraft operations and other aviation emergencies shall ensure that the emergency response plan is properly coordinated with the emergency response plans of those organizations it must interface with during the provision of its products and services.

1.5 SMS documentation

1.5.1 The service provider shall develop and maintain an SMS manual that describes its—

- (a) safety policy and objectives;
- (b) SMS requirements;
- (c) SMS processes and procedures; and
- (d) accountability, responsibilities and authorities for SMS processes and procedures.

1.5.2 The service provider shall develop and maintain SMS operational records as part of its SMS documentation. Depending on the size of the service provider and the complexity of its aviation products or services, the SMS manual and SMS operational records may be in the form of stand-alone documents or may be integrated with other organizational documents (or documentation) maintained by the service provider.

2. Safety risk management

2.1 Hazard identification.

2.1.1 A service provider shall develop and maintain a process to identify hazards associated with its aviation products or services.

2.1.2 Hazard identification shall be based on a combination of reactive and proactive methods.

2.2 Safety risk assessment and mitigation.

The service provider shall develop and maintain a process that ensures analysis, assessment and control of the safety risks associated with identified hazards. The process may include predictive methods of safety data analysis.

3. Safety assurance.

3.1 Safety performance monitoring and measurement.

3.1.1 The service provider shall develop and maintain the means to verify the safety performance of the organization and to validate the effectiveness of safety risk controls.

3.1.2 The service provider's safety performance shall be verified in reference to the safety performance indicators and safety performance targets of the SMS in support of the organization's safety objectives.

3.2 The management of change

The service provider shall develop and maintain a process to identify changes which may affect the level of safety risk associated with its aviation products or services and to identify and manage the safety risks that may arise from those changes.

3.3 Continuous improvement of the SMS

The service provider shall monitor and assess its SMS processes to maintain or continuously improve the overall effectiveness of the SMS.

4. Safety promotion

4.1 Training and education

4.1.1 The service provider shall develop and maintain a safety training programme that ensures that personnel are trained and competent to perform their SMS duties.

4.1.2 The scope of the safety training programme shall be appropriate to each individual's involvement in the SMS.

4.2 Safety communication

The service provider shall develop and maintain a formal means for safety communication that:

- a) ensures personnel are aware of the SMS to a degree commensurate with their positions;
- b) conveys safety-critical information;
- c) explains why particular actions are taken to improve safety; and
- d) explains why safety procedures are introduced or changed.

THIRD SCHEDULE (rr. 11(4), 15(2), 15(3), 16(2))

PRINCIPLES FOR THE PROTECTION OF SAFETY DATA, SAFETY INFORMATION AND RELATED SOURCES

Note 1.—The protection of safety data, safety information and related sources is essential to ensure their continued availability, since the use of safety data and safety information for purposes other than maintaining or improving safety may inhibit the future availability of such data and information, with a significant adverse effect on safety.

Note 2.—In view of their different legal systems, States have the flexibility to draft their laws and regulations in accordance with their policies and practices.

Note 3.—The principles contained in this Schedule are aimed at assisting the enacting and adoption of national laws, regulations and policies to protect safety data and safety information gathered from safety data collection and processing systems (SDCPS), as well as related sources, while allowing for the proper administration of justice and necessary actions for maintaining or improving aviation safety.

Note 4.—The objective is to ensure the continued availability of safety data and safety information by restricting their use for purposes other than maintaining or improving aviation safety.

1. Introduction

1.1 The protection of safety data, safety information and related sources is essential to ensure their continued availability, since the use of safety data and safety information for purposes other than maintaining or improving safety may inhibit the future availability of such data and information, with a significant adverse effect on safety.

1.2 The principles allow for flexibility to draft laws and regulations in accordance with Kenya policies and practices.

1.3 The principles contained in this Schedule are aimed at assisting in the enacting and adoption of laws, regulations and policies to protect safety data and safety information gathered from safety data collection and processing systems (SDCPS), as well as related sources, while allowing for the proper administration of justice and necessary actions for maintaining or improving aviation safety.

1.4 The objective is to ensure the continued availability of safety data and safety information by restricting their use for purposes other than maintaining or improving aviation safety.

1.5 Throughout this Schedule, “SDCPS” means processing and reporting systems, safety databases, schemes for exchange of information, and recorded information including but not limited to—

- (a) data and information pertaining to accident and incident investigations, as described in the Civil Aviation (Accident and Incident Investigation) Regulations;
- (b) data and information related to safety investigations by State authorities or aviation service providers;
- (c) mandatory safety reporting systems, as described in regulation 11 (2) to these Regulations;
- (d) voluntary incident reporting systems, as described in regulation 11 (3) to these Regulations; and
- (e) self-disclosure reporting systems, including automatic data capture systems, as described in Civil Aviation Regulations, as well as manual data capture systems.

Note. — Information on SDCPS can be found in the Safety Management Manual (SMM).

2. General principles

2.1 National laws, regulations and policies protecting safety data, safety information and related sources, shall ensure that—

- (a) a balance is struck between the need for the protection of safety data, safety information and related sources to maintain or improve aviation safety, and the need for the proper administration of justice;
- (b) safety data, safety information and related sources are protected in accordance with this Schedule;
- (c) the conditions under which safety data, safety information and related sources qualify for protection are specified; and
- (d) safety data and safety information remain available for the purpose of maintaining or improving aviation safety.

Note.— *The protection of safety data, safety information and related sources is not intended to interfere with the proper administration of justice or with maintaining or improving safety.*

2.2 When an investigation under Civil Aviation (Accident and Incident Investigation) Regulations has been instituted, accident and incident investigation records protected under the said regulations shall be subject to the protections accorded therein instead of the protections accorded by this Schedule.

3. Principles of protection

3.1 Safety data or safety information should not be used for—

- (a) disciplinary, civil, administrative and criminal proceedings against employees, operational personnel or organizations;
- (b) disclosure to the public; or
- (c) any purposes other than maintaining or improving safety;

unless a principle of exception applies.

3.2 Protection to safety data, safety information and related sources shall be accorded by ensuring that—

- (a) the protection is specified based on the nature of safety data and safety information;
- (b) a formal procedure to provide protection to safety data, safety information and related sources is established;
- (c) safety data and safety information will not be used in a way different from the purposes for which they were collected, unless a principle of exception applies; and
- (d) to the extent that a principle of exception applies, the use of safety data and safety information in disciplinary, civil, administrative and criminal proceedings will be carried out only under authoritative safeguards.

Note 1.— *The formal procedure may include that any person seeking disclosure of safety data or safety information will provide the justification for its release.*

Note 2.— *Authoritative safeguards include legal limitations or restrictions such as protective orders, closed proceedings, in-camera review, and de-identification of data for the use or disclosure of safety information in judicial or administrative proceedings.*

4. Principles of exception

Exceptions to the protection of safety data, safety information and related sources shall only be granted when the competent authority:

- (a) determines that there are facts and circumstances reasonably indicating that the occurrence may have been caused by an act or omission considered, in accordance with national laws, to be conduct constituting gross negligence, willful misconduct or criminal activity;
- (b) after reviewing the safety data or safety information, determines that its release is necessary for the proper administration of justice, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information; or
- (c) after reviewing the safety data or safety information, determines that its release is necessary for maintaining or improving safety, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information.

Note 1.—In administering the decision, the competent authority takes into account the consent of the source of the safety data and safety information.

Note 2.—Different competent authorities may be designated for different circumstances. The competent authority could include, but is not limited to, judicial authorities or those otherwise entrusted with aviation responsibilities designated in accordance with national law.

5. Public disclosure

5.1 In the event of right-to-know laws, in the context of requests made for public disclosure, exceptions shall be created from public disclosure to ensure the continued confidentiality of voluntarily supplied safety data and safety information.

Note.—Laws, regulations and policies commonly referred to as right-to-know laws (freedom-of-information, open records, or sunshine laws) allow for public access to information held by the State.

5.2 Where disclosure is made in accordance with section 4, it shall be ensured that—

- (a) public disclosure of relevant personal information included in the safety data or safety information complies with applicable privacy laws; or
- (b) public disclosure of the safety data or safety information is made in a de-identified, summarized or aggregate form.

6. Responsibility of the custodian of safety data and safety information

It shall be ensured that each SDCPS has a designated custodian to apply the protection to safety data and safety information in accordance with applicable provisions of this Schedule.

Note.—The “custodian” may refer to an individual or organization.

7. Protection of recorded data

Note 1.—Ambient workplace recordings required by national laws, for example, Cockpit Voice Recorders (CVRs) or recordings of background communication and the aural environment at air traffic controller work stations, may be perceived as constituting an invasion of privacy for operational personnel that other professions are not exposed to.

Note 2.—Provisions on the protection of flight recorder recordings and recordings from air traffic control units during investigations instituted under Civil Aviation (Accident and Incident Investigation) Regulations are contained therein. Provisions on the protection of flight recorder recordings during normal operations are contained in Civil Aviation (Operation of Aircraft for Commercial Air Transport) Regulations.

7.1 Through national laws and regulations, specific measures of protection shall be provided regarding the confidentiality and access by the public to ambient workplace recordings.

7.2 Through national laws and regulations, ambient workplace recordings required by national laws and regulations shall be treated as privileged protected data subject to the principles of protection and exception as provided for in this Schedule.

Dated the 26th March, 2018.

JAMES MACHARIA,
*Cabinet Secretary for
Transport, Infrastructure, Housing and Urban Development.*

(Legislative Supplement No. 23)

LEGAL NOTICE NO. 94

THE CIVIL AVIATION ACT

(No. 21 of 2013)

THE CIVIL AVIATION (AIRCRAFT NATIONALITY AND REGISTRATION
MARKS) REGULATIONS, 2018

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THE CIVIL AVIATION ACT

(No. 21 of 2013)

IN EXERCISE of powers conferred by section 82 of the Civil Aviation Act, 2013 the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development makes the following Regulations—

CIVIL AVIATION (AIRCRAFT NATIONALITY AND REGISTRATION MARKS) REGULATIONS, 2018

PART I—PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
 - “Act” means the Civil Aviation Act, 2013;
 - “Aeroplane” means a power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;
 - “aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;
 - “airship” means a power-driven lighter-than-air aircraft;
 - “Authority” means the Kenya Civil Aviation Authority;
 - “balloon” means a non-power-driven lighter-than-air aircraft;
 - “commercial air transport” means an aircraft operation involving the transport of passengers, cargo, or mail for remuneration or hire;
 - “Contracting State” means a state that is a signatory to the Convention on International Civil Aviation;
 - “fireproof material” means a material capable of withstanding heat as well or better than steel when the dimensions in both cases are appropriate for the specific purpose;
 - “glider” means a non-power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces, which remain fixed under given conditions of flight;
 - “gyroplane” means a heavier-than-air aircraft, deriving its lift in flight by the reactions of the air on one or more rotors which rotate freely on substantially vertical axes;
 - “heavier-than-air aircraft” means any aircraft deriving its lift in flight chiefly from aerodynamic forces;
 - “helicopter” means a heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axis;
 - “lighter-than-air” aircraft means any aircraft supported chiefly by its buoyancy in the air;
 - “ornithopter” means heavier-than-air aircraft supported in flight

chiefly by reactions of the air on planes to which a flapping motion is imparted;

“remotely-piloted-aircraft (RPA)” means an unmanned aircraft which is piloted from a remote pilot station;

“rotorcraft” means a power-driven heavier-than-air aircraft supported in flight by the reactions of the air on one or more rotors;

“Tribunal” means the National Civil Aviation Administrative Review Tribunal established under section 66 of the Act; and

“sea plane” means an aero plane equipped with floats or other devices enabling it to land and take off from the surface of water.

PART II—AIRCRAFT REGISTRATION REQUIREMENTS

3. (1) A person shall not operate an aircraft, as classified in the First Schedule to these Regulations, within or fly over Kenya unless— General provisions.

(a) for an aircraft eligible for registration under the laws of Kenya, the aircraft has been registered by the operator or its owner in accordance with these Regulations and the Authority has issued a certificate of registration for that aircraft which shall be carried aboard that aircraft for all operations; or

(b) it is registered in—

(i) a contracting State to the Convention on International Civil Aviation; or

(ii) some other State in relation to which there is in force an agreement between the Government of Kenya and the Government of that State which makes provisions for the flight over Kenya of aircraft registered in that State.

(2) Subject to this regulation, an aircraft shall not be registered or continue to be registered in Kenya where—

(a) the aircraft is registered outside of Kenya;

(b) an unqualified person is entitled as owner to any legal or beneficial;

(c) interest in the aircraft or to any share therein;

(d) it would be inexpedient in the public interest for the aircraft to be or to continue to be registered in Kenya; or

(e) the aircraft does not qualify to be issued with a certificate of airworthiness as specified in the Civil Aviation (Airworthiness) Regulations.

(3) A person shall not operate or fly an aircraft unless it bears painted thereon or affixed thereto, in the manner required by the law of the State in which it is registered, the nationality and registration marks required by that law.

(4) An aircraft shall not bear any marks which purport to indicate that the aircraft is—

- (a) registered in a State in which it is not in fact registered; or
- (b) a State aircraft of a particular State if it is not in fact such an aircraft unless the appropriate authority of that State has sanctioned the bearing of such marks.

(5) The Authority shall be responsible for the registration of aircraft in Kenya and shall maintain a register on its premises and shall record in it the particulars specified in regulation 6.

(6) The register of unmanned free balloons shall contain the date, time and location of release, the type of balloon and the name of the operator—

- (a) an aircraft which is intended to be operated with no pilot on board shall be further classified as unmanned; and
- (b) unmanned aircraft shall include unmanned free balloons and remotely piloted aircraft.

4. (1) An aircraft is eligible for registration if it is—

Eligibility for registration.

- (a) either owned or leased by a citizen of Kenya, an individual citizen of a foreign State who is lawfully admitted for residency in Kenya, a corporation lawfully organized and doing business under the laws of Kenya, or a government entity of Kenya; and
- (b) not registered under the laws of any foreign country.

(2) The following persons shall be qualified to be the owners of a legal or beneficial interest in an aircraft registered in Kenya, or a share therein—

- (a) the Government of Kenya;
- (b) citizens of Kenya or persons bona fide resident in Kenya;
- (c) such other persons as the Authority may approve, on condition that the aircraft is not used for commercial air transport, flying training or aerial work and such other conditions as the Authority may specify; and
- (d) bodies corporate—
 - (i) established under subject laws of Kenya; or;
 - (ii) established under and subject to the laws of such country as the Authority may approve.

(3) If an unqualified person residing or having a place of business in Kenya is entitled as owner to a legal or beneficial interest in an aircraft, or a share therein, the Authority, upon being satisfied that the aircraft may otherwise be properly registered, may register the aircraft in Kenya and that person shall not cause or permit the aircraft while it is registered in pursuance of this sub-regulation to be used for the purpose of commercial air transport operations or aerial work.

(4) If an aircraft is leased or is the subject of a lease, charter or hire purchase agreement to a person qualified under sub-regulation (2),

the Authority may, whether or not an unqualified person is entitled as owner to a legal or beneficial interest therein, register the aircraft in the names of the parties to the charter or hire purchase agreement upon being satisfied that the aircraft may otherwise remain so registered during the continuation of the lease, charter or hire-purchase agreement.

5. (1) A person who wishes to register an aircraft in Kenya shall submit an application for aircraft registration to the Authority aircraft for registration on a form prescribed by the Authority and each application shall—

Application for
Registration of
aircraft

- (a) certify as to the citizenship of the applicant;
- (b) show evidence identifying ownership; and
- (c) be signed in ink.

(2) The application for aircraft registration shall be submitted with the prescribed fee to the Authority.

(3) An application for the registration of an aircraft in Kenya may be made by, or on behalf of the owner provided that—

- (a) the applicant is legally entitled to the aircraft;
- (b) a written notice is submitted to the Authority identifying the person making the application on behalf of the owner;
- (c) in case of a body corporate, a written notice identifying an officer of the body corporate, and address, who may be served with documents, including the registration certificate issued by the Authority;
- (d) for imported aircraft with previous registration of a foreign country, a statement issued by the authority responsible for registration of aircraft in that country stating when the registration was cancelled;
- (e) a description of the aircraft that identifies it by reference to its manufacturer;
- (f) if the aircraft has previously been registered in Kenya or anywhere else particulars of the registration mark, if it has been reserved for the aircraft;
- (g) the name and address of each person who holds a proprietary interest in the aircraft and a description of the person's property interest;
- (h) the name and address of the registered owner if different from paragraph (d);
- (i) physical station where the aircraft will be usually stationed;
- (j) name and signature of the applicant; and
- (k) date of the application.

6. Upon receiving an application for the registration of an aircraft and being satisfied that the aircraft may properly be so registered, the Authority shall register the aircraft, and shall include in the register and on the certificate the following particulars—

Registration of aircraft.

- (a) the nationality mark of the aircraft, and the registration mark assigned to it by the Authority;
- (b) the name of the manufacturer and the manufacturer's designation of the aircraft;
- (c) the serial number of the aircraft;
- (d) the name of the owner;
- (e) address of the owner;
- (f) name or logo of the Authority;
- (g) the number of the certificate;
- (h) the name and address of every person who is entitled as owner to a legal interest in the aircraft or a share therein, or, in the case of a lease agreement or financial arrangement, the names and addresses of lessee and lessor or as the case may be, the financier; and
- (i) conditions with regard to which it is registered.

7. (1) The Authority shall furnish to the person or persons in whose name or names the aircraft is registered, in this regulation referred to as the "registered owner", a certificate of registration, as set out in the Second Schedule, which shall include the particulars specified in regulation 6 and the date on which the certificate was issued.

Certificate of registration.

(2) Subject to regulation 4, if at any time after an aircraft has been registered in Kenya an unqualified person becomes entitled as owner to a legal or beneficial interest in the aircraft or share therein, or the ownership of that aircraft is transferred to a person not qualified under the provisions of Regulation 4, the registration of the aircraft shall thereupon become void and the certificate of registration shall forthwith be returned by the registered owner to the Authority for cancellation.

8. (1) A person registered as the owner of an aircraft registered in Kenya shall notify the Authority in writing of—

Change of registration or ownership particulars.

- (a) any change in the particulars which were furnished to the Authority upon application being made for the registration of the aircraft;
 - (b) the destruction of the aircraft or its permanent withdrawal from use; and
 - (c) in the case of an aircraft registered in pursuance of regulation 4(4), the termination of the lease, charter or hire-purchase agreement.
- (2) A person who becomes the owner of an aircraft registered in

Kenya shall inform the Authority in writing.

(3) The Authority may, where it appears necessary or appropriate, or for purposes of updating the register in accordance with sub-regulation (1) and (2), correct or amend the particulars entered on the register.

(4) For purposes of this regulation reference to the registered owner of the aircraft includes, in the case of a deceased person, his legal representative and in the case of a body corporate which has been dissolved, its successor.

9. (1) The Authority may de-register or cancel the registration of an aircraft under the following circumstances — De- registration of an aircraft

- (a) upon application by the registered owner for purposes of registering the aircraft in another state or for any other purpose; or
- (b) upon the destruction of the aircraft or its permanent withdrawal from use.

(2) The Authority shall, before de-registering an aircraft in accordance with this regulation, require the registered owner to—

- (a) return to the Authority the certificate of aircraft registration;
- (b) settles any liens or encumbrances attached to the aircraft;
- (c) remove all nationality and registration marks assigned to the aircraft; and
- (d) comply with any such other conditions as the Authority may specify.

PART III—NATIONALITY AND REGISTRATION MARKS

10. (1) A person shall not operate an aircraft registered in Kenya unless it displays nationality and registration marks in accordance with the requirements of these Regulations. Marking and manner of affixation

(2) The marks used to identify the nationality of Kenya shall conform to the requirements outlined in regulation 11 followed by a series of numbers or letters assigned by the Authority.

(3) Unless otherwise authorized by the Authority, a person shall not place on any aircraft a design, mark or symbol that modifies or confuses the nationality and registration marks.

(4) When letters are used for the registration mark, combinations shall not be used which might be confused with—

- (a) the three-letter combinations beginning with Q used in the Q Code;
- (b) five-letter combinations used in the International Code of Signals;
- (c) the distress signal SOS, or other similar urgent signals, for example XXX, PAN and TTT; or
- (d) the marks used shall not be so similar to international marks

as to be confused with the International Five Letter Code of Signals or Distress Codes or codes referenced in the current and effective International Telecommunications Regulations.

(5) Permanent marking of aircraft nationality and registration shall—

- (a) be painted on the aircraft or affixed by other means ensuring a similar degree of permanence;
- (b) have no ornamentation;
- (c) contrast in colour with the background;
- (d) be legible; and
- (e) be kept clean and visible at all times.

(6) The side marks for lighter-than-air aircraft shall be so located as to be visible both from the sides and from the ground.

(7) The unmanned balloon shall carry an identification plate marked with a serial number issued by the Authority.

11. (1) An owner of an aircraft registered in Kenya shall display marks on that owner's aircraft the nationality mark "5Y" followed by the registration of the aircraft consisting of three Roman Capital letters assigned by the Authority with a hyphen placed between the nationality mark and the registration mark. Display of marks

(2) If, because of the aircraft configuration, it is not possible to mark the aircraft in accordance with these Regulations, the owner may apply to the Authority for a different procedure.

12. (1) A person shall not operate a heavier-than-air aircraft unless the aircraft is marked as follows— Location of marks

- (a) an aircraft with fixed wing—
 - (i) the marks shall be located on the lower surface of the port wing of the aircraft unless they extend across the lower surfaces of both of the wings of the aircraft and shall as far as possible, be located equidistant from the leading and trailing edges of the wing or wings with the top of the letters, and number, comprising the marks, towards the leading edge of the wing or wings;
 - (ii) for an aircraft having more than one set of wings, the mark shall be placed on the lower wing or the lower set of wings, as the case maybe;
 - (iii) the marks shall also appear either on the fuselage, or equivalent structure, of the aircraft or on the vertical tail surface of the aircraft, and shall be on each side of the fuselage or equivalent structure between the wings and the tail surfaces;
 - (iv) the marks on the vertical tail surfaces shall be on each side of the vertical tail surface for aircraft with a single vertical surface, and shall be on each of the out board sides of the

outer vertical surfaces of the tail structure for an aircraft with multi-vertical surface structure; and

- (b) rotorcraft - the marks shall be located horizontally on both the port and starboard sides and on any of the following where it is clearly visible—
 - (i) on the fuselage;
 - (ii) on the engine cowling;
 - (iii) on the tank or tanks; and
 - (iv) on the tail boom; or on any other external surface approved by the Authority.

(2) Lighter-than-air aircraft—

- (a) airship— the marks on an airship shall appear either on the hull or on the stabilizer surfaces. Where the marks appear on the hull, they shall be located lengthwise on each side of the hull and also on its upper surface on the line of symmetry. Where the marks appear on the stabilizer surfaces, they shall appear on the horizontal and on the vertical stabilizers; the marks on the horizontal stabilizer shall be located on the right half of the upper surface and on the left half of the lower surface, with the tops of the letters and numbers toward the leading edge; the marks on the vertical stabilizer shall be located on each side of the bottom half stabilizer, with the letters and numbers placed horizontally;
- (b) spherical balloon other than unmanned free balloons, the marks shall appear in two places diametrically opposite and shall be located near the maximum horizontal circumference of the balloon; and
- (c) non-spherical balloon other than unmanned free balloons, the marks shall appear on each side and shall be located near the maximum cross section of the balloon immediately above either the rigging band or the points of attachment of the basket suspension cable.

(3) All lighter-than-air-aircraft other than unmanned free balloons, the side marks shall be visible both from the sides and from the ground.

13. (1) A person shall not operate an aircraft unless the aircraft is marked with the number and letters comprising one or more marks on the same aircraft of equal height.

Measurement of marks

(2) The width of each letter and number (except the letter I and the number '1') and the length of each hyphen must be two-thirds the height of a letter or number.

(3) The letters, numbers and hyphens shall be—

- (a) formed by solid lines with thickness of one-sixth of the height of the marks; and
- (b) of colour that is clear contrast to the colour of the

background to the marks.

(4) Each letter, or number, shall be separated from a letter, a number or hyphen, which precedes or follows it, by a space not less than one quarter of the width of a character (except the letter I and the number ('1')).

(5) In the case of lighter-than-air aircraft, other than unmanned free balloons, the length of the marks shall be at least 50 centimeters.

(6) Where a lighter than air aircraft does not possess parts of sufficient size to accommodate the mark described in sub – regulation 5, the measurements of the marks shall be determined by the Authority taking into account of the need for the aircraft to be identified.

(7) The marks on a balloon and unmanned free balloon shall be vertical and shall be at least 50 centimeters.

(8) In case of fixed wing heavier-than-air aircraft—

- (a) the wing marks shall be at least 50 centimeters in height;
- (b) the marks on the fuselage (or equivalent structure) shall be at least 30 centimeters in height without visually interfering with the outlines of the fuselage (or equivalent structure);
- (c) the marks on the vertical tail surface marks shall be at least 30 centimeters in height with a clearance of 5 centimeters from leading and trailing edge of the tail surface; and
- (d) if the marks are too small to accommodate the marks in a, b and c the measurements of the marks shall be determined by the Authority taking into account the need for the aircraft to be identified readily.

(9) In the case of rotorcraft—

- (a) the marks shall be at least 30 centimeters in height, or (b) if the surface area of that part of the rotorcraft on which the marks are to be located is insufficient to enable compliance with paragraph (a);
- (b) the measurements of the marks shall be determined by the Authority taking into account the need for the aircraft to be identified readily;
- (c) as high as possible; or
- (d) in either case the mark shall leave a clearance of 5 centimeters from the edge of that part of the rotorcraft on which the marks are located and must not interfere with the outlines of the rotorcraft.

(10) The marks shall be vertical or sloping at the same angle being an angle of no more than 30 degrees to the vertical axis.

14. A person shall not operate an aircraft unless the aircraft is marked with capital letters in Roman characters without ornamentation; numbers shall be Arabic numbers without ornamentation and hyphens shall be considered as characters
- Types of characters for nationality and registration marks
15. (1) Where either one of the surfaces authorized for displaying required marks is large enough for display of marks meeting the size requirements of these Regulations and the other is not, the registered owner shall place full-size marks on the larger surface.
- Deviations for size and location of marks
- (2) Where, neither surface is large enough for full-size marks; the Authority may approve marks as large as practicable for display on the larger of the two surfaces.
16. When an aircraft registered in Kenya is sold, the holder of the certificate of registration shall upon de-registration remove, before its delivery to the purchaser, all nationality and registration marks of Kenya, unless the purchaser is a citizen or other legal entity as prescribed in Regulation 4(1).
- Removal of marks
17. The operator shall affix to each aircraft registered under plate the laws of Kenya an identification plate—
- Identification plate required
- (a) containing the aircraft type, model, serial number, nationality and registration marks;
- (b) made of fireproof metal or other fireproof material of suitable physical properties;
- (c) secured to the aircraft in a prominent position, near the main entrance, or in the case of an unmanned free balloon, affixed conspicuously to the exterior of the payload; and
- (d) in the case of a remotely piloted aircraft, secured in a prominent position near the main entrance or compartment or affixed conspicuously to the exterior of the aircraft if there is no main entrance or compartment.
- PART IV—GENERAL PROVISIONS**
18. A person who holds a certificate of registration required by these Regulations shall present it for inspection upon a request from the Authority or any other person authorized by the Authority.
- Inspection of certificate of registration
19. (1) A holder of a certificate issued under these Regulations may apply to change the name on the certificate.
- Change of name
- (2) The holder shall include with any such request—
- (a) the current certificate; and
- (b) a court order, or other legal document verifying the name change.
- (3) The Authority may change the certificate and issue a replacement of the certificate.
- (4) The Authority shall return to the holder the original documents specified in sub-regulation 2(b) of this regulation and retain copies thereof and return the replaced certificate with the appropriate endorsement.

20. (1) A holder of a certificate, issued under these Regulations shall notify the Authority of the change in the physical and mailing address and shall do so in the case of—

Change of Address.

- (a) the physical address, at least fourteen days in advance; and
- (b) the mailing address upon the change.

(2) A person who fails to notify the Authority of the change in the physical address within the time frame specified in sub-regulation (1) shall not exercise the privileges of the certificate.

21. A person may apply to the Authority in the prescribed form for replacement of certificate of registration issued under these Regulations if such certificate is lost or destroyed.

Replacement of certificate.

22. (1) The Authority may, where it considers it to be in the public interest, suspend provisionally, pending further investigation, any certificate issued, granted having effect under these Regulations. Provided that, whether or not such further investigation has been completed, a provisional suspension under this sub-regulation shall, if not otherwise terminated, cease to have effect after 28 days.

Certificate, suspension and revocations.

(2) The Authority may, upon the completion of an investigation which has shown sufficient ground to its satisfaction and where it considers it to be in the public interest, revoke, suspend, or vary any document issued or granted under these Regulations.

(3) The Authority may, where it considers it to be in the public interest, prevent any person or aircraft from flying.

(4) A holder or any person having the possession or custody of any document which have been revoked, suspended or varied under these Regulations shall surrender it to the Authority within 14 days from the date of revocation, suspension or variation.

(5) The breach of any condition subject to which any document has been granted or issued under these Regulations shall render the document invalid during the continuance of the breach.

23. (1) A person shall not—

Use and retention of certificates and records.

- (a) use any certificate issued under these Regulations which has been forged, altered or to which he is not entitled;
- (b) forge or alter any certificate issued under these Regulations;
- (c) lend any certificate issued under these Regulations to any other person; or
- (d) make any false representation for the purpose of procuring for himself or any other person the issue or change of any such certificate.

(2) During the period for which it is required under these Regulations to be preserved, a person shall not mutilate, alter, render illegible or destroy any records, or any entry made therein, required by or under these Regulations to be maintained, or knowingly make, or

procure or assist in the making of, any false entry in any such record, or willfully omit to make a material entry in such record.

(3) All records required to be maintained by or under these Regulations shall be recorded in a permanent and indelible material.

(4) A person shall not purport to issue any certificate for the purpose of these Regulations unless he is authorised to do so under these Regulations.

(5) A person shall not issue any certificate of the kind referred to in sub-regulation (4) unless he has satisfied himself that all statements in the certificate are correct, and that the applicant is qualified to hold that certificate.

24. (1) Any person who knows of a violation of the Act, or any rule, regulation, or order issued there under, shall report it to the Authority. Reports of violation

(2) The Authority will determine the nature and type of any additional investigation or enforcement action that need to be taken.

25. (1) The Authority shall take enforcement action on any regulated entity that fails to comply with the provisions of these Regulations. Enforcement of directions

(2) Inspectors of the Authority holding valid delegations shall take necessary action to preserve safety where an undesirable condition has been detected.

(3) The action(s) referred to in sub-regulation (2) may include—

- (a) in the case of a regulated entity, imposition of operating restrictions until such a time that the existing undesirable condition has been resolved; and
- (b) in the case of a licensed personnel, require that the individual does not exercise the privileges of the license until such a time that the undesirable condition has been resolved.

(4) In carrying out the enforcement actions pursuant to the provisions of sub-regulation (2), the inspectors of the Authority shall invoke the powers with due care and act in good faith in the interest of preserving safety.

26. (1) The Authority shall notify the fees to be charged in connection with the issue including the issue of a duplicate copy thereof, or the undergoing of any examination or investigation required by, or for the purpose of these Regulations any orders, notices or proclamations made thereunder. Aeronautical user fees

(2) Upon an application being made in connection with which any fee is chargeable in accordance with the provisions of sub-regulation (1), the applicant shall be required, before the application is entertained, to pay the fee so chargeable.

(3) If, after that payment has been made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused, the Authority shall not refund the payment made.

27. (1) These Regulations shall apply to aircraft, not being military aircraft, belonging to or exclusively employed in the service of the Government, and for the purposes of such application, the Department or other authority for the time being responsible for management of the aircraft shall be deemed to be the operator of the aircraft, and in the case of an aircraft belonging to the Government, to be the owner of the interest of the Government in the aircraft.

Application of regulations to Government and visiting forces, etc.

(2) Except as otherwise expressly provided, the naval, military and air force authorities and member of any visiting force and property held or used for the purpose of such a force shall be exempt from the provision of these regulations to the same extent as if the visiting force formed part of the military force of Kenya.

(3) Meteorological pilot balloons used exclusively for meteorological purposes or unmanned free balloons without a payload, shall be exempt from the provision of this regulation except as otherwise expressly provided.

PART V—MISCELLANEOUS PROVISIONS

28. Except where the context otherwise requires, the provisions of these Regulations shall—

Extra-territorial application of Regulations.

- (a) in so far as they apply, whether by express reference or otherwise, to aircraft registered in Kenya, apply to such aircraft wherever they may be;
- (b) in so far as they apply, whether by express reference or otherwise, to other aircraft, apply to such aircraft when they are within Kenya;
- (c) in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything by any person in, or by any of the crew of, any aircraft registered in Kenya, shall apply to such persons and crew, wherever they may be;
- (d) in so far as they prohibit, require or regulate (whether by express reference or otherwise) the doing of anything in relation to any aircraft registered in Kenya by other persons shall, where such persons are citizens of Kenya, apply to them wherever they may be; and
- (e) not apply to meteorological pilot balloons used exclusively for meteorological purposes or to unmanned free balloons without a payload.

29. The Authority may suspend or revoke the licence, certificate, approval, authorisation, exemption or other document of a person who contravenes any provision of these Regulations.

Contravention of Regulations.

30. A person aggrieved with the decision of the Authority under these Regulations may within 21 days of such decision appeal to the Tribunal.

Appeals to the Tribunal.

31. (1) A person who contravenes any provision specified as an “A” provision in the Third Schedule to these Regulations commits an offence and is liable on conviction to a fine not exceeding one million shillings for each offence and or to imprisonment for a term not exceeding one year or to both.

(2) A person who contravenes any provision specified as a “B” provision in the Third Schedule to these Regulations commits an offence and is liable on conviction to a fine not exceeding two million shillings for each offence and or to imprisonment for a term not exceeding three years or to both.

(3) A person who contravenes any provision of these Regulations not being a provision referred to in the Third Schedule to these Regulations commits an offence and is liable on conviction to a fine not exceeding two million shillings, and in the case of a second or subsequent conviction for the like offence to a fine not exceeding four million shillings.

32. The Civil Aviation (Aircraft and Registration Markings) Regulations, 2013, are revoked.

33. (1) A license, certificate, approval or any other document issued to a person or operator prior to the commencement of these Regulations shall continue in force as if it was issued under these Regulations until it expires, varied or cancelled by the Authority.

(2) Notwithstanding any other provision of these Regulations, a person who at the commencement of these Regulations, is carrying out any acts, duties or operations affected by these Regulations shall, within one (1) year from the date of commencement, or within such longer time that the Cabinet Secretary may, by notice in the Gazette prescribe, comply with the requirements of these Regulations or cease to carry out such acts, duties or operations.

SCHEDULES

FIRST SCHEDULE

(r.3)

CLASSIFICATION OF AIRCRAFT

Table I. Classification of aircraft

| | | | | | | |
|----------|---------------------------|---------------------------|--|--|------------|---|
| AIRCRAFT | Lighter-than-air aircraft | Non-power-driven: balloon | Free balloon | <ul style="list-style-type: none"> Spherical free balloon Non-spherical free balloon | | |
| | | | Captive balloon | <ul style="list-style-type: none"> Spherical captive balloon Non-spherical captive balloon¹ | | |
| | | Power-driven | Airship | <ul style="list-style-type: none"> Rigid airship Semi-rigid airship Non-rigid airship | | |
| | | | | | | |
| | Heavier-than-air aircraft | Non-power-driven | Glider | <ul style="list-style-type: none"> Land glider Sea glider² | | |
| | | | Kite ⁴ | | | |
| | | Power-driven | Acroplane | <ul style="list-style-type: none"> Landplane³ Seaplane² Amphibian² | | |
| | | | | Rotorcraft | Gyroplane | <ul style="list-style-type: none"> Landgyroplane³ Sea gyroplane² Amphibian gyroplane² |
| | | | | | Helicopter | <ul style="list-style-type: none"> Land helicopter³ Sea helicopter² Amphibian helicopter² |
| | | Ornithopter | <ul style="list-style-type: none"> Land ornithopter³ Sea ornithopter² Amphibian ornithopter² | | | |

1. Generally designated "kite-balloon".
 2. "Float" or "boat" may be added as appropriate.
 3. Includes aircraft equipped with ski-type landing gear (substitute "ski" for "land").
 4. For the purpose of completeness only.

SECOND SCHEDULE (r7)
Certificate of Registration template

| | | |
|--|--|--|
| * | State or Common mark registering authority Ministry Department or Service | * |
| CERTIFICATE OF REGISTRATION | | |
| 1. Nationality or common mark and registration mark | 2. Manufacturer and manufacturer's designation of aircraft | 3. Aircraft serial no. |
| 4. Name of owner | | |
| 5. Address of owner | | |
| 6. It is hereby certified that the above described aircraft has been duly entered on the | | |
| in accordance with the Convention on International Civil (name of register) | | |
| Aviation dated 7 December 1944 and with the (†) | | |
| (Signature) | | |
| Date of issue | | |
| (†) Insert reference to applicable regulations. | | |
| * | | |

* For use by the State of Registry or common mark registering authority.

THIRD SCHEDULE

(r 31)

PENALTIES

| <i>Reg. No.</i> | <i>Title</i> | <i>Part</i> |
|-----------------|---|-------------|
| 3 | General. | B |
| 8 | Change of registration particulars. | A |
| 9 | De-registration. | A |
| 10 | Marking and manner of affixation | B |
| 11 | Display of marks. | A |
| 12 | Location of marks. | A |
| 13 | Measurement of marks. | A |
| 14 | Types of characters for nationality and registration marks. | A |
| 16 | Removal of marks. | A |
| 17 | Identification plate required. | A |
| 23 | Use and retention of certificates and records. | B |
| 24 | Report of violations | B |
| 25 | Enforcement of directions | A |

Made on the 26th March, 2018.

JAMES MACHARIA,
*Cabinet Secretary for Transport,
Infrastructure, Housing and Urban Development.*