



Advisory Circular

CAA-AC-GEN002
June, 2022

PROCEDURES FOR DEVELOPEMENT AND AMENDMENT OF CIVIL AVIATION REGULATIONS

1.0 PURPOSE

- 1.1 The establishment and management of a State Safety Oversight (SSO) system requires that an appropriate and up-to-date regulatory framework be in place as well as up-to-date Technical Guidance Materials (TGMs) that support the implementation of the regulatory framework are important.
- 1.2 The Civil Aviation Act is the Primary aviation legislation. Implementation of the requirements contained in the Convention on International Civil Aviation and its Annexes requires that a State establish aviation legislation at the appropriate level, taking into consideration the State's legal framework. The Convention require that the State promulgate primary aviation legislation, as needed, to serve as the legal basis for the safety oversight activities in Kenya
- 1.3 The Primary Legislation is subject to regular review and amendments to maintain its capability in ensuring Implementation of the requirements contained in the Convention and its Annexes.
- 1.4 Kenya Civil Aviation Regulations, transpose the provisions of ICAO Annexes, Regional Supplementary Procedures (SUPPS) and Procedures for Air Navigation Services (PANS). The Annexes and PANS are regularly amended by ICAO necessitating amendments to the Regulations to reflect the latest provisions of corresponding ICAO Annexes and PANS.
- 1.5 Further, amendments of the Civil Aviation Act are occasioned by changes in the size and complexity of the aviation system in Kenya, introduction of new technology as well as regulations surpassed by the prevailing situation may require amendments to keep them relevant and responsive to the needs of the aviation industry.
- 1.6 In order to effectively support the implementation of Regulations, the Authority publishes Technical Guidance Material (TGMs) to both its inspectors and the aviation industry. Changes in Regulations therefore may necessitate amendments to the TGMs for relevance and appropriate guidance.
- 1.7 In order to achieve the aspirations of the East African Community Civil Aviation Safety & Security

Oversight Agency (EAC-CASSOA) Protocols, Primary Act, Regulations and TGMs approved at Partner State Level, will be shared with EAC-CASSOA for harmonization. Sharing of TGMs may be executed during coordinated meetings and sessions of the Agency.

- 1.8 This Advisory Circular is issued to provide information and guidance on the procedure to be adopted for the development and amendment of the Civil Aviation Regulations to enhance safety and security oversight.
- 1.9 This AC therefore is issued as guidance to the aviation industry and interested persons on the procedure and process the Authority will adopt in the review and development of Kenya Civil Aviation Regulations (KCARs). The Authority appreciates the provisions of applicable statutes in the development or subsidiary legislation in Kenya as provided for in the Statutory Instruments Act, 2013 and therefore this AC only provides guidance to processes relating to interactions between the Authority and stakeholders in the process of development and review of KCARs.

2.0 REFERENCES

- 2.1 The Constitution of Kenya;
- 2.2 Statutory Instruments Act, 2013;
- 2.3 The Civil Aviation Act (as Amended);
- 2.4 Kenya Civil Aviation Regulations;
- 2.5 FORM: AC-GEN002 - Stakeholder Regulatory Feedback Form (Appendix I to this Advisory Circular)

3.0 GENERAL GUIDANCE

- 3.1 **General guidelines for the Development and/or Review of Civil Aviation Legislation**
 - 3.1.1 For purposes of these procedures, Legislation will be interchangeably be used to refer to the Civil Aviation Act or KCARs unless specifically referred to as such.
 - 3.1.2 The Authority being the State Agency responsible for the oversight of the aviation industry in Kenya and having the mandate to ensure effective implementation of International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) under the State obligations for ICAO Contracting States.
 - 3.1.3 The Authority therefore in its aspiration to ensure the highest possible standards for aviation safety, security, economic and environmental regulations with the aviation industry shall be guided by the provisions of Article 37 to the Convention on International Civil Aviation.

- 3.1.4 Exceptionally and after scrutiny by all relevant technical units within the Authority, including stakeholder consultation, differences to ICAO SARPs may be filed if only in the interest of the aviation system in Kenya.
- 3.1.5 The Authority implements a consultative process in the development and review of legislation to ensure that provisions contained in legal instruments are understood and agreed upon to ensure greater and voluntary compliance once promulgated and thus enhancement of the aviation safety and security standards in Kenya.
- 3.1.6 While these procedures are aimed at providing general guidance for the development and review of legislation relating to Civil Aviation, where any deviations may exist with applicable statutes, the provisions of the statutes shall override such variations.

4.0 PROCEDURES FOR THE DEVELOPMENT AND/OR AMENDMENT OF LEGISLATION

- 4.1 The need to revise or amend the Civil Aviation Act, on matters relating to safety and security oversight, may be occasioned by any of the following circumstances:
 - 4.1.1 Changes in the Convention on International Civil Aviation that necessitate amendment of the Act;
 - 4.1.2 Upon receipt and assessment of amendments to relevant ICAO Annexes and PANS that necessitate a change in sections of the Act;
 - 4.1.3 Upon review of the Constitution, Government policies that affect and require the amendment of the Act;
 - 4.1.4 Upon receipt of request/information from stakeholders regarding the application and/or implementation of the Act. Comments from the stakeholders may be presented to the Authority vide **FORM: AC-GEN002** attached to this Advisory Circular as *Appendix I*;
 - 4.1.5 Whenever there is a significant change in the size and complexity of the aviation system;
 - 4.1.6 Whenever there is change in technology;
 - 4.1.7 When the Act is no longer relevant, applicable or effective;
 - 4.1.8 As may be desired by the Authority to enhance efficiency of the safety oversight system.
- 4.2 The need to develop, amend and revise Regulations may be occasioned by any of the following circumstances:
 - 4.2.1 Upon receipt and assessment of amendments to relevant ICAO Annexes and PANS that necessitate a change of applicable regulations;
 - 4.2.2 Upon amendment to Civil Aviation Act that necessitates amendment to regulations;

- 4.2.3 Upon receipt of request/information from stakeholders regarding the application and/or implementation of the regulations;
 - 4.2.4 Whenever there is a significant change in the size and complexity of the aviation system;
 - 4.2.5 Whenever there is a change in technology;
 - 4.2.6 When the regulations are no longer relevant, applicable or effective;
 - 4.2.7 As may be desired by the Authority to enhance efficiency of the safety oversight system.
- 4.3 The Civil Aviation Act, being an Act of Parliament is enacted in accordance with Article 95 of the Constitution of Kenya and thus the process of its issuance, review or amendment are guided by the Laws of Kenya.
- 4.4 The procedure contained here only outlines the necessary steps to be undertaken by the Authority in facilitation of development of text to be considered as Bills in Parliament for enactment on safety and security oversight matters.
- 4.5 The processes after submission of the draft document for consideration to be a Bill and the process of enactment cannot be covered in these procedures as this is already covered comprehensively, in the Laws of Kenya. The laws governing enactment of legislation apply in full, in the development, review or amendment of the Act.
- 4.6 The means for publication of the draft Bill will be through the Authority's website, official government communique such as Kenya Law Report website, hard copy documents available at the Authority or Government Printers or Newspapers.
- 4.7 While the process of development of legislation includes the collection of views and comments from the public/stakeholders, the Authority will endeavor to collect views and information from the public by the most appropriate means available. While physical meetings may be desirable, other means such as virtual meetings, written submissions etc. may be adopted to facilitate the process.
- 4.8 The Authority will endeavor to notify the public of availability of the draft documents by the most appropriate means available including national newspapers and official social media handles. Stakeholders are encouraged to visit the Authority's website for updates on legislative matters.
- 4.9 The timelines and a flowchart depicting the processes for the development and review of legislation are attached to this Advisory Circular as *Appendix II*.



Civil Aviation Authority

Additional information (e.g. reference material)

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2	Civil Aviation (.....) Regulations, 20xx	Regulation X(x)	<i>(A detailed description of the concern or error in the regulation)</i>
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Proposed Text to address the concern.

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Additional information (e.g. reference material)

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Submitted by: Name: 	Designation/Position
Organization: 	Contact: Tel. Email:
Sign: 	Date: (DD)..../.....(MM)...../20.....

CAA ACTION ONLY <i>(to be taken as a resolution of Regulatory Review Committee Meeting)</i>		
KCAA Consideration <i>(tick one)</i>	Justification	
Recommendation Accepted		
Recommendation Accepted with changes		
Recommendation Rejected		
Additional Comments & Further Action/Guidance		

Action being resolution of Regulatory Review Committee Meeting	Meeting Number and Date (DD)..../.....(MM)...../20.....	Minute Reference
Regulatory Review Committee Chairperson 	Sign. 	Date: .(DD)/.....(MM)../20.....
Regulatory Review Committee Secretary 	Sign. 	Date: .(DD)/.....(MM)../20.....
RECOMMENDATION		
Director, ASSR 	Sign. 	Date: .(DD)/.....(MM)../20.....
APPROVAL		
Director General 	Sign. 	Date: .(DD)/.....(MM)../20.....

LEGISLATION DEVELOPMENT & AMENDMENTS TIMELINES AND FLOW CHART

No.	Activity	Responsible Office	Timelines
Step 1	Receipt and processing of legislation development and/or amendment trigger	KCAA	<i>KCAA Process</i>
Step 2	Development of draft legislation	KCAA	<i>KCAA guided Process</i>
Step 3	Publication of draft legislation for stakeholder comments	KCAA	21 days
Step 4	Stakeholder consultation process	KCAA & Industry	14 days
Step 5	Consideration of stakeholder comments and incorporation in the draft legislation	KCAA	14 days
Step 6	Publication of revised draft legislation for stakeholder review	KCAA	14 days
Step 7	Stakeholder review of revised draft legislation	KCAA & Industry	14 days
Step 8	Development of final draft legislation	KCAA	14 days
Step 9	Publication of final draft legislation for stakeholder review	KCAA	10 days
Step 10	Approval and transmittal to Ministry	KCAA	5 days
Step 11	1. <i>Parliamentary process and passing of the</i> 2. <i>Act Promulgation of regulations</i>	1. <i>Parliamentary Process</i> 2. <i>Ministry Function</i>	<i>*Parliamentary Process</i> <i>**Undetermined</i>
Step 12	Publication of newly promulgated legislation and removal of all drafts from the website	KCAA	7 days
Step 13	Forwarding of Promulgated legislation to CASSOA for Regional Harmonization	KCAA	5 days after publication

*** The Authority has no control over the Parliamentary process in view of the fact that it is controlled by the Parliamentary calendar.*

**The Ministerial function of approval and subsequent processes for promulgation whose timelines and control are beyond the Authority's scope*

LEGISLATION DEVELOPMENT & REVIEW FLOW CHART

