



REGULATORY IMPACT ASSESSMENT
For the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024

November 2024

This Regulatory Impact Assessment (RIA) has been prepared by the Cabinet Secretary - Ministry of Roads and Transport

Section 6 and 7 of the Statutory Instruments Act CAP 2A

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1.0 CHAPTER ONE – INTRODUCTION

1.1 Regulatory Authority and the Legal Mandate

Kenya Civil Aviation Authority is established under the Kenya Civil Aviation Act CAP 394 (the Act) with the primary functions being Regulation and Oversight of Aviation Safety and Security; Economic Regulation of air services and development of Civil Aviation; Provision of Air Navigation Services; and Training of aviation personnel as guided under the provisions of the Convention on International Civil Aviation, related ICAO Standards and Recommended Practices (SARPs), the Act, and the Civil Aviation Regulations.

The object and purpose for which the Authority was established are, to economically and efficiently plan, develop and manage civil aviation, regulate and operate a safe civil aviation system in Kenya in accordance with the provisions of the Act

Section 82 (1) of the Civil Aviation Act, 2013 empowers the Cabinet Secretary, at the time overseeing Transport, to make Regulations to give effect to and for the better carrying out of the objects and purposes of the Act, and to provide generally for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention.

Further, Section 82(2) of the Act is more specific and provides that Without prejudice to the generality of Section 82(1), the regulations developed are for-

- 1.1.1 regulating, by establishing licensing authorities and a system of licensing and otherwise, the use of aircraft (i) for commercial transport; and (ii) for aerial work;
- 1.1.2 providing for the registration and marking of aircraft;
- 1.1.3 prohibiting the flying of any aircraft— (i) unless there is in force in respect of such aircraft a certificate of airworthiness or permit to fly issued or recognized in accordance with regulations made under this Act; and (ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed or specified in the certificate or permit;
- 1.1.4 requiring the flight crew, and persons, performing prescribed functions in relation to the operation or maintenance of aircraft, air navigation services, design and construction of aircraft to be the holders of licenses of specified kinds;
- 1.1.5 providing for the manner and conditions of issue, validation, renewal, extension or variation of any licence required in regulations and for the form, custody, production, cancellation, suspension, endorsement and surrender of such;
- 1.1.6 providing for the conditions under which passenger and cargo may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, and for prohibiting the carriage by air of goods of such classes as may be prescribed;
- 1.1.7 minimizing or preventing interference with the use or effectiveness of apparatus used in connection with air navigation and air navigation services and prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft;
- 1.1.8 generally securing the safety, efficiency, and regularity of air navigation and safety of aircraft and of persons and cargo carried therein, and for preventing aircraft endangering other persons;

- 1.1.9 regulating the making of signals and other communications by or to aircraft and persons carried therein;
- 1.1.10 subject to any other written law, prescribing a civil air ensign for Kenya and regulating the use of any other ensign established for purposes connected with air navigation;
- 1.1.11 prohibiting aircraft from flying over such areas in Kenya as the Cabinet Secretary may by order published in the Gazette declare to be prohibited areas;
- 1.1.12 prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any license, or the undergoing of any examination or test required by regulations made under this Act or any other matters in respect of which it appears to the Cabinet Secretary to be expedient to charge fees;
- 1.1.13 prescribing charges or enabling some other Authority to prescribe charges to be paid in respect of air navigation services, regulatory services and providing for the recovery of such charges;
- 1.1.14 providing for consumer protection and any other related matter;
- 1.1.15 exempting any aircraft or persons or classes of aircraft or persons from the provisions of any regulations made under this Act;
- 1.1.16 providing for the investigation in such manner as may be prescribed, including by means of a tribunal established for the purpose, of any accident arising out of or during air navigation and occurring either in or over Kenya or occurring elsewhere to Kenya aircraft;
- 1.1.17 prohibiting access to or interference with aircraft to which an accident has occurred, and authorizing any person, so far as may be necessary for the purpose of an investigation, to have access to, remove, take measures for the preservation of, or otherwise deal with any such aircraft;
- 1.1.18 requiring any person who owns an aircraft or who carries on the business of operating aircraft for hire or reward to furnish to such authorities as may be prescribed such information relating to the aircraft and the use thereof, the crew, the mail, the passengers and the cargo carried, as may be prescribed;

We now undertake public and stakeholder consultations and present this RIA in partial fulfillment of the requirements of the Statutory Instruments Act.

1.2 Requirements of the Statutory Instruments Act

The Statutory Instruments Act CAP 2A (SIA) is the legal framework governing the conduct of RIA in Kenya. Sections 6 and 7 require that if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the Regulation-Making Authority (RMA) shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument. SIA further sets out certain key elements that must be contained in the RIA namely:

- 1.2.1 a statement of the objectives of the proposed legislation and the reasons for them
- 1.2.2 a statement explaining the effect of the proposed legislation including in the case of a proposed legislation which is to amend an existing statutory instrument the effect on the operation of the existing statutory instrument
- 1.2.3 a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;

- 1.2.4 an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives;
- 1.2.5 the reasons why the other means are not appropriate;
- 1.2.6 any other matters specified by the guidelines;
- 1.2.7 a draft copy of the proposed statutory rule. Section 5 of SIA requires an RMA to conduct public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

1.3 What is a Regulatory Impact Assessment (RIA)?

RIA is a systemic approach of critically assessing the positive and negative effects of proposed or existing regulations and non-regulatory alternatives. It is an analytical report to assist decision makers to arrive at an informed policy decision.

As an aid to decision making, RIA includes an evaluation of possible alternative regulatory and non-regulatory approaches with the overall aim of ensuring that the final selected regulatory option provides the greatest net public benefit.

Typically, the structure of a RIA should contain the following elements: title of the proposal, the objective and intended effect of the regulatory policy, an evaluation of the policy problem, consideration of alternative options, assessment of all their impacts distribution, results of public consultation, compliance strategies, and processes for monitoring and evaluation.

RIA promotes evidence-based policymaking as new regulations typically lead to numerous impacts that are often difficult to foresee. From a societal viewpoint, RIA confirms whether a proposed regulation is welfare enhancing, in that, the benefits will surpass costs.

RIA therefore has an overall objective of not only improving understanding of the real-world impact of regulatory action, including both the benefits and the costs of action, but also integrating multiple policy objectives, improving transparency and consultation; and enhancing governmental Authority.

2.0 CHAPTER TWO – PURPOSE AND OBJECTS OF THE CIVIL AVIATION (UNMANNED AIRCRAFT SYSTEMS) REGULATIONS 2024

2.1 Scope and application

The Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 shall apply to:

- 1.2.8 Any person who imports, exports, tests, owns, operates, procures, leases, assembles, manufactures, modifies or maintains civil UAS in Kenya.
- 1.2.9 Any person who operates certified civil Remotely Piloted aero planes and helicopters for Commercial, General and Aerial Work within Kenya and Kenyan registered RPAS wherever they may be.

These regulations shall not apply to State Aircraft.

The scope of the regulations covers:

- a) General provisions covering definitions of terms like UAS and their categories, Remote pilot, Visual line of sight (VLOS)
- b) Registration requirements and certification standards for drones based on size, weight and intended use and requirements for marking drones with unique identification numbers.
- c) Remote piloting certification and responsibilities including licensing and training.
- d) Operational limitations including maximum attitude, prohibited areas. Rules of flying over people or moving motor vehicles at night.
- e) Airworthiness standards/safety requirements for drones including maintenance and inspection
- f) Airspace use and permissions.
- g) Safety and risk management
- h) Privacy, security and data management
- i) Insurance and liability
- j) International operations
- k) Penalties and enforcement

2.2 Objective

The objective of the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 is to ensure safe integration of Unmanned Aircraft Systems (UAS) into the Kenyan air navigation system, ensure safety of other airspace users and the safety of persons and property on the ground.

2.3 Specific objectives

Specific objectives of the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 are:

- 1.2.10 To incorporate ICAO Standards and Recommended Practices (SARPs) in Annex 6 Part IV and Model Regulations.
- 1.2.11 To provide requirements for compliance by foreign UAS operators with laws, regulations and procedures of Kenya.
- 1.2.12 To provide requirements for operation of highly autonomous and highly automatic UAS in Kenya.
- 1.2.13 To provide requirements for Communication, Navigation and Surveillance Equipment to facilitate Remotely Piloted Aircraft Systems (RPAS).
- 1.2.14 To provide requirements for safe carriage of Dangerous Goods on board UAS.

- 1.3 An Overview of the Proposed Civil Aviation (Unmanned Aircraft Systems) Regulations 2024: These regulations aim to safely and securely integrate UAS operations into the air navigation system. The salient features of the reviewed regulation are as follows:

2.4 Outline of the Regulations

Section A

Part I— Preliminary Provisions

Part II— Registration, Licensing and Operation of UAS

Part III— General Requirements for Operations of UAS

Part IV—Security

Section B

Part I: General Operations Requirements

Part II: Flight Operations²

Part III: Inflight Procedures

Part IV: RPAS-Specific Operating Rules

Part V: Fatigue Risk Management System

Part VI: RPA Performance Operating Limitation

Part VII: RPAS Instruments, Equipment and Flight Documents

Part VIII: RPAS Communication, Navigation and Surveillance Equipment

Part IX: RPA Continuing Airworthiness

Part X: Remote Flight Crew

Part XI: Flight Operations Officer

Part XII: Manuals, Logs and Records

Part XIII: Security Of RPAS

Part XIV: Dangerous Goods

Part XV: Cargo Compartment Safety

Section C

Miscellaneous Provisions

Schedule— Penalties

3.0 CHAPTER THREE – BACKGROUND AND CONTEXT

3.1 Policy Background

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity.

Goal 9 of the SDGs advocates for building resilient infrastructure, promoting inclusive and sustainable industrialization and fostering innovation. Kenya intends to provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport by 2030.

Kenya Vision 2030 is a nationwide multi-sectorial document that outlines the main policies, legal and institutional reforms as well as programs and projects that the Government plans to implement.

The 2030 Vision aspires to be a country firmly interconnected through a network of roads, railways, ports, air, water and sanitation facilities, and telecommunications. The expansion, modernization and management of the aviation sector continues to enhance air transport safety, security, and connectivity across the country and beyond. Civil aviation is a critical catalyst for global and national development. Air transport in Kenya has continued to grow and has contributed to job creation and increased interaction and trade with other countries.

Bottom-Up Economic Transformation Agenda (BETA): The Bottom-Up Economic Transformation Plan 2022-2027 is the manifesto of the Kenya Kwanza administration that will be implemented over the next five years. The agenda is built on six main pillars, to be implemented through five (5) MTP IV sectors that include Infrastructure. One of the aims under infrastructure sector is to enhance transport connectivity and the provisions of the regulations are meant to institutionalize a civil aviation regulatory and oversight framework that promotes a sustainable safe and secure air transport system in Kenya.

Constitution of Kenya 2010: The Constitution recognizes civil aviation as one of the functions under the National Government in the fourth schedule. Chapter 4 of the Constitution provides for the Bill of Rights. Article 46 provides for consumer protection where it applies to goods and services offered by public entities or private persons. Aviation Consumers have rights for services of reasonable quality; information necessary for them to get full benefit from the services; and protection of their economic interests. Chapter 6 of the Constitution provides for leadership and integrity including the conduct of state officers and public officers. Employees and officers of the Authority are public officers hence they are bound by the principles of Chapter 6 of the Constitution. The regulations have largely provided standardized ways of provision of quality services, information to be used by its consumers for protection of their economic interest, data protection issues, access to information while maintaining technical infrastructure within the aviation sector. Article 94 (6) of the Constitution gives parliament the power to delegate its legislative authority to a State organ, State officer or person to make provision having the force of law in Kenya.

Kenya Aviation Policy: The Policy aims to foster the growth of aviation business in Kenya to support job creation by positioning Kenya as a recognized regional leader in aviation; maximize the contribution of the aviation sector to Kenya's economic growth and development; and enhance Kenya's connectivity at a national and international level by ensuring safe, secure and competitive access which is responsive to the needs of businesses, tourism and the population. The Policy covers the entire aviation sector in Kenya including key air transport challenges related to regulatory framework, safety, security, environmental aspects, economic regulation, institutional framework, air transport market and stakeholders, air transport infrastructure including planning, development, operation, and management, air transport personnel, and air transport statistics.

The Kenya Airspace Master Plan: The Plan outlines the evolution and associated investments to be made by the Kenya Civil Aviation Authority (KCAA) in Air Navigation Services (ANS) over the next 15 years. The objectives of the Plan include global and regional consistency, legal/regulatory considerations, and stakeholder expectations. The plan covers operational evolutions, technical improvements, and human resources development.

The National Aviation Safety Plan (NASP): The Plan is aligned with the International Civil Aviation Organization's (ICAO) Global Aviation Safety Plan (GASP), the NASP outlines objectives, strategic priorities, and safety actions to be taken over three years (2023 to 2025). The Plan includes key elements such as identification of national safety issues, setting aviation safety goals and targets, implementing Safety Enhancement Initiatives (SEIs), and collaborating with industry stakeholders and agencies responsible for safety oversight. The NASP complements Kenya's State Safety Programme (SSP) Document.

Civil Aviation Act: The Civil Aviation Act No. 21 of 2013 was enacted to provide for the control, regulation and orderly development of civil aviation in Kenya; and for connected purposes. Section 4 of the Act provides that the provisions of the Act and regulations made thereunder unless expressly excluded shall apply to: aerodromes used for civil aviation in Kenya; air services established or operating in Kenya; any aircraft registered by the Authority; any foreign aircraft within the Kenya territory; aviation personnel and training schools certified by the Authority; enterprises operating in Kenya in the design, manufacture, maintenance, repair and modification of aircraft and aircraft parts or components; and air navigation facilities and services in Kenya. Section 82 provides for the Regulations that can be made by the Cabinet Secretary responsible for aviation matters to give effect to the Act and for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention on aviation ratified by Kenya.

3.2 Domestic Context

The Kenya Civil Aviation Authority is established under the Civil Aviation Act with the object and purpose for which the Authority as established shall be, to economically and efficiently plan, develop and manage civil aviation, regulate and operate a safe civil aviation system in Kenya in accordance with the provisions of the Act. Further The Civil Aviation Act require that the Cabinet Secretary shall make regulations to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention.

The Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 enable KCAA to effectively discharge its mandate by establishing operational standards that ensure that the aviation system in Kenya is aligned to the standards established internationally and applicable globally.

The Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 therefore are issued in fulfillment of the obligations set forth in the Civil Aviation Act and in support of the mandate of KCAA.

1.4 3.3 International Context

The Convention on International Civil Aviation, which, has been ratified by Kenya established the International Civil Aviation Organization (ICAO) with a mandate to support, coordinate and help countries to diplomatically and technically realize a uniquely rapid and dependable network of global air mobility, connecting families, cultures, and businesses all over the world, and promoting sustainable growth and socio-economic prosperity wherever aircraft fly.

As a global forum of States for international civil aviation. ICAO develops policies and Standards, undertakes compliance audits, performs studies and analyses, helps and builds aviation capacity through many other activities and the cooperation of its Member States and stakeholders.

Article 37 of the Convention on International Civil Aviation provides for Adoption of international standards and procedures requiring each contracting State undertaking to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

The International Civil Aviation Organization adopts and amends international standards and recommended practices and procedures dealing with various aspects of air navigation and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

Further, Article 12 of the Convention requires that each contracting State undertakes to adopt measures to ensure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable.

Internationally, each of the 193 contracting States has, in compliance with their national commitments and obligations under the Convention, established national civil aviation regulations with the objective of governing the aviation industry in their jurisdiction.

Article 12 of the Convention relating to scheduled air services provides that no scheduled international air service may be operated over or into the territory of a contracting State,

except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

The lack of an appropriate set of regulations in one contracting state jeopardizes the safety, security and economic status of international air navigation. The Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 are therefore proposed to ensure fulfilment of state obligation and alignment of the Kenyan aviation system with international requirements and allow Kenya effectively to explore the potential economic and geopolitical benefits of participating in international air navigation.

4.0 CHAPTER FOUR – EVALUATION OF THE PROBLEM

- 1.5 The current Civil Aviation (Unmanned Aircraft Systems) Regulations were promulgated in March 2020. Since that time, UAS technology has undergone significant changes, driven by advancements in technology, evolving safety practices, and the increasing complexity of international aviation standards.

The International Civil Aviation Organization (ICAO) has since developed the Model UAS regulations and Annex 6 Part IV to keep pace with these developments, enhancing global safety and operational efficiency. The revised regulations are designed to comply with the above ICAO Standards and Recommended Practices (SARPs).

4.1 Currency of the Civil Aviation (Unmanned Aircraft Systems) Regulations 2020

By adopting these new standards, Kenya not only fulfills its obligations as an ICAO Member State, but also reinforces the country's commitment to an efficient and safe aviation system, which is vital for client confidence, economic sustainability, and international trust.

This update is therefore essential for addressing the regulatory lag that has accumulated since June 2020, enabling Kenya to effectively respond to emerging risks and adopt best practices that strengthen the oversight, certification, and operational management of UAS in Kenya.

4.2 Sustainability of Civil Aviation System

The Civil Aviation (Unmanned Aircraft Systems) Regulations, 2024 aim to build a foundation for long-term sustainability in Kenya's UAS sector, focusing on operational, economic, and environmental resilience as follows.

1.5.1 International Obligation

The reviewed UAS regulations ensure that Kenya complies with safety and security measures as stipulated by international regulations. This enhances airspace safety and ensures the safe integration of UAS into the country's aviation system. Consequently, Kenya plays a contributory role in the international effort to create a safer global aviation environment.

It positions Kenya favorably and bolsters its standing amongst its peers, thus

fostering stronger international relations. The responsible regulation of UAS exhibits Kenya's commitment to technological advancements and the embracing of innovative solutions in the aviation sector.

1.5.2 Aviation Safety/Security/Economics

Implementation of the reviewed UAS Regulations will enhance safety as they ensure that UAS operators are well trained and adhere to strict operating conditions. This reduces the risk of accidents, damages and potential liability issues.

Reviewed regulations provide a framework for tracking, monitoring and identifying UAS. This prevents unauthorized UAS activities, enhancing the nation's security from potential threats.

These regulations will facilitate the appropriate use of UAS in various commercial activities such as agriculture, surveying, and freight delivery, promoting economic growth. It will also encourage innovation and entrepreneurship, as clear regulations provide a stable environment for businesses to invest and thrive in.

1.5.3 Operational rights to other jurisdictions

Review of the UAS regulations will enhance clarity of legal definitions related to UAS operations, which ultimately leads to a better understanding of operational rights and obligations across different jurisdictions. This will ensure safe and regulated use of these systems.

By reviewing these regulations, we can facilitate information exchange and foster mutual recognition among different jurisdictions. This provides a basis for expanding operational rights, as other jurisdictions will have a clear understanding and confidence in Kenya's UAS regulations, thereby allowing for broader operational permissions.

These regulations will reflect advancements in drone technology and industry standards. These regulations can set a precedent for other jurisdictions, encouraging them to update their own rules, contributing to the alignment of operating standards across regions and countries.

1.5.4 Reduction of Cost of Doing Business

These regulations aim to address the rapid advancements in UAS technology, ensuring legal compliance is compatible with modern UAS utilizations. Businesses can take advantage of these technologies to streamline their operations, therefore reducing associated costs.

Additionally, the regulations are reviewed to a more simplified version, assisting businesses to spend less on compliance-related activities. Cost savings can then be

diverted to other essential business endeavors, ultimately leading to a more efficient use of resources.

Lastly, the regulations will reduce uncertainty for UAS operators. Businesses can make more accurate financial projections and risk assessments, reducing the associated costs of uncertainty.

5.0 CHAPTER FIVE – LEGAL FRAMEWORK FOR THE PROPOSED CIVIL AVIATION (UNMANNED AIRCRAFT SYSTEMS) REGULATIONS 2024

5.1 The Civil Aviation Act

The Civil Aviation Act No. 21 of 2013 was enacted to provide for the control, regulation and orderly development of civil aviation in Kenya; and for connected purposes. Section 4 of the Act provides that the provisions of the Act and regulations made thereunder unless expressly excluded shall apply to: aerodromes used for civil aviation in Kenya; air services established or operating in Kenya; any aircraft registered by the Authority; any foreign aircraft within the Kenya territory; aviation personnel and training schools certified by the Authority; enterprises operating in Kenya in the design, manufacture, maintenance, repair and modification of aircraft and aircraft parts or components; and air navigation facilities and services in Kenya. Section 82 provides for the Regulations that can be made by the Cabinet Secretary responsible for aviation matters to give effect to the Act and for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention on aviation ratified by Kenya. The draft Civil Aviation (Unmanned Aircraft Systems) Regulations, 2024 have been developed under section 82 of the Civil Aviation Act.

5.2 International and Regional Legislation

1.5.5 International Standards

Kenya, by virtue of Articles 2 (5) and (6) of the Constitution has ratified and become part of the international participants in the aviation space. The International Civil Aviation Authority (ICAO) was established as a specialized United Nations (UN) agency under the Convention of International Civil Aviation (Chicago Convention) which helps 193 countries to cooperate and share their skies to their mutual benefit. To achieve this, ICAO has provided for the establishment of international Standards and Recommended Practices (SARPs) the uniform application of which is necessary in order to achieve the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

The draft Civil Aviation (Unmanned Aircraft Systems) Regulations, 2024 correspond to the amendments made to the SARPs issued by ICAO as Annexes to the Convention on international civil aviation.

Kenya as a contracting state has an obligation under Article 37 to the Convention on international civil aviation to domesticate the SARPs into legally enforceable legislative material.

These regulations thus are issued in fulfilment of Kenya's international obligations as an ICAO contracting state and to ensure the safety, security, regularity and economic viability of global air transport system.

5.6 Regional Legislative initiatives

Regionally, Kenya is a member of the African Civil Aviation Commission (AFCAC) which is a specialized body of the African Union (AU) whose mandate is to create a safe, secure, efficient, and sustainable civil aviation industry across Africa that propels development through furthering connectivity.

Further, under the East African Community, Kenya is a member of Civil Aviation Safety and Security Oversight Agency (CASSOA) which is established under Article 92 of the EAC Treaty which in summary states that the Partner States shall undertake to make air transport services safe, efficient and profitable; adopt common policies for the development of civil air transport in the region; harmonize civil aviation rules and regulations and coordinate measures and co-operate in the maintenance of high security.

Under commitments under these regional arrangements and the aspiration to ensure that the regional air transport industry is appropriately managed, Kenya is obliged to issue these regulations to fulfill the regional obligations to a safe, secure and economically viable air transport system.

5.7 Statutory Instruments Act, No.23 of 2013

1.5.6 Statutory Instruments Act CAP 2A

This Act provides rules for the making and revocation of Statutory Instruments made directly or indirectly under any Act of Parliament or other written legislation. The object of this Act is to provide a comprehensive regime for the making, scrutiny, publication and operation of statutory instruments by:

- a. requiring regulation-making authorities to undertake appropriate consultation before making Statutory Instruments;
- b. requiring high standards in the drafting of Statutory Instruments to promote their legal effectiveness, clarity and intelligibility to anticipated users;
- c. improving public access to Statutory Instruments;
- d. establishing improved mechanisms for parliamentary scrutiny of Statutory Instruments; and
- e. establishing mechanisms to ensure that Statutory Instruments are periodically reviewed and, if they no longer have a continuing purpose, repealed.

1.5.7 The Act also makes provision for the making of regulatory impact statements under section 6 as well as contents of the regulatory impact statement under section 7.

6.0 CHAPTER SIX – STAKEHOLDER CONSULTATION

6.1 Legal requirements relating to public participation and consultation

Statutory Instruments Act, No.23 of 2013

The need to amend the Civil Aviation (Unmanned Aircraft Systems) Regulations 2020 was necessitated by a series of ICAO State Letters informing the State of amendments to annexes 1, 2, 6 and 8 that would become effective on specified dates. Kenya as a contracting State was therefore required to bring its regulations into uniformity with the adopted and amended SARPS.

Public participation plays a crucial role in democratic governance by ensuring transparency, inclusivity, and accountability in decision-making processes. The Constitution of Kenya 2010, places emphasis on public participation as a fundamental principle of governance. Article 10 of the Kenya Constitution outlines the values and principles of governance, including public participation, which is crucial for achieving accountability, transparency, and public involvement in decision-making processes.

In addition, Article 118 of the constitution establishes the right to public participation in legislative and other processes of the State, ensuring that the public has an opportunity to participate in matters that affect them directly.

The requirement for public participation applies to regulation making too. As such, before the draft regulations would be forwarded for promulgation, a series of stakeholder/public engagements was conducted.

6.2 The Process of Public Consultation

The Public Participation process involved notice to the public through the MyGov Newspaper of 21st May 2024 informing them of planned Stakeholder Engagement exercise. The same information was shared with the public through the official KCAA website and social media handles.

6.3 Public Notice and awareness

The stakeholders' engagement forum was advertised in the MyGov Newspaper of 21st May 2024 in accordance with applicable requirements for stakeholder engagement.

The draft Regulation, Matrix of changes and a form to collect stakeholder comments were uploaded on the KCAA website www.kcaa.or.ke.

The advert also highlighted how prospective participants would register for the public forum.

1.6 Public participation forums

A physical stakeholder engagement was conducted at the Panari Hotel along Mombasa Road in Nairobi on 12th to 14th June 2024. The Stakeholder engagement report, approval MEMO and copy of signed attendance list are annexures to this report.

1.7 Analysis and Feedback

Refer to Matrices

1.8 Credibility and integrity of the Process

1.8.1 To ensure that the process of public participation was credible and pass the integrity test, KCAA did:

1.8.1.1 not engage in conduct involving dishonesty, fraud, deceit, misrepresentation, or discrimination and avoid relationships or actions, which could be legitimately interpreted as a conflict of interest; and,

1.8.1.2 took into consideration the social and economic status, religious beliefs, ethnicity, and other social diversities of those engaging in public participation.

1.8.2 Complaints arising from the public participation process, if any, were referred to the Director General through and resolved as appropriate including provision of additional time and contact to address any stakeholders' concerns.

7.0 CHAPTER SEVEN – COST BENEFIT ANALYSIS

7.1 Consideration of Regulatory and non regulatory

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024
Personnel	Non-compliance: makes it difficult to keep up with regulatory and technological changes, which can lead to non-compliance. Non-compliance can result in costly penalties, legal disputes, and damage to the organization's reputation	Administrative measures rely on voluntary compliance and lack the legal authority to ensure mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the sector.	Elimination of regulatory lag to enable Kenya to effectively respond to emerging risks and adopt best practices that strengthen the oversight, and operational management of air operators in Kenya. New roles and responsibilities may arise, requiring new and recruitment training, thus creating new employment opportunities.
Air Operator	The Regulations will be outdated and not aligned with the latest ICAO requirements.	Administrative measures rely on voluntary compliance and lack the legal authority to ensure	Clear and current operational guidelines and regulatory

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024
	Outdated training methodologies Operational inconsistency and inefficiencies. missing out on innovations	mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the sector.	requirements. Opportunities for innovation and modernization.
ANSP	Lack of capacity to facilitate safe integration of UAS operations in the airspace.	Administrative measures rely on voluntary compliance and lack the legal authority to ensure mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the sector.	Opportunity for safe integration of UAS into the airspace. Capacity enhancement to facilitate UAS operations. Enhancement of Communication, Navigation and Surveillance infrastructure to accommodate UAS operations.
Aerodrome Operator	Lack provision for aerodrome infrastructures to cater for UAS operations	Administrative measures rely on voluntary compliance and lack the legal authority to ensure mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the sector.	Availability of regulatory framework and standards for construction, maintenance and certification of dock stations and aerodromes suitable for UAS takeoff and landing. Aerodrome

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024
			infrastructure enhancement suitable for UAS utilization.
UAS Service Consumers	Costly UAS services due to regulatory constraints.	Administrative measures rely on voluntary compliance and lack the legal authority to ensure mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the sector.	Promotion of a conducive environment for UAS innovation. More cost-effective UAS services.
The State	Non-compliance with Statutory obligation on Chicago Convention. Potential negative impact to Bilateral Aviation Safety Agreements (BASA) with other States.	Administrative measures rely on voluntary compliance and lack the legal authority to ensure mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the sector.	Strengthened compliance with international aviation obligations and standards. Enhanced safety and security for the state that is enhanced global reputation for safety and compliance.
The Authority	Limited ability to enforce outdated regulations. Challenges in maintaining safety standards. Non-compliance with updated ICAO Standards and Recommended Practices (SARPs) to	Administrative measures rely on voluntary compliance and lack the legal authority to ensure mandatory enforcement. This may be subject to legal challenges, limiting their effectiveness in achieving consistent implementation across the	Clear regulatory framework and guidelines. Authority gains stronger enforcement capabilities.

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024
	integrate UAS into the aviation industry.	sector.	

7.2 Costs and Benefits Generally

The cost-benefit analysis of the Civil Aviation (Unmanned Aircraft Systems) Regulations, 2024, indicates that while there are upfront costs associated with compliance and implementation, the long-term benefits particularly in safety, operational efficiency, and economic growth far outweigh these initial investments.

By fostering a safer and more competitive aviation environment, the regulations are positioned to deliver substantial value to operators, passengers, and the broader economy. The net positive impact supports the case for modernizing the regulatory framework to meet contemporary challenges in the UAS sector.

The table below highlights the cost benefit analysis of the options.

	Option One: Maintenance of the Status Quo	Option Two: Administrative measures	Option Three: Promulgating the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024

Costs	Risk of accidents involving drones Lack of trust in drone industry and shunning compromised security and privacy by unauthorized surveillance Environmental degradation due to use of using environmentally unfriendly UAS	Difficulties in enforcement and implementation Risk of accidents involving drones Lack of trust in drone industry and shunning Compromised security and privacy by unauthorized surveillance Environmental degradation due to use of using environmentally unfriendly UAS	Costs for developing and enforcing the Regulations including establishment of regulatory framework New staff and training Registration fees for registering drones and obtaining certificates Equipment costs to meet safety requirements Mandatory liability insurance premiums Restrictions may affect business opportunities Potential delays in deploying technologies
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Benefits	None	None	Reduced risk of accidents involving drones Enhanced trust in drone industry promotes uptake in industries like agriculture
			Enhanced security and privacy by preventing unauthorized surveillance Environmental benefits of using environmentally friendly UAS Support for research and development and increased innovation Reduced compliance costs, which will improve financial resilience across the sector. Global Interoperability- Compliance with ICAO requirements
			Better preparedness for future technological advancements Incorporation of industry best practice and remedy implementation shortcomings of the existing UAS regulations.

7.3 Preferred Option

The third option; Promulgation of the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 will strengthen Kenya's Civil aviation system by ensuring alignment with current ICAO standards on UAS, enhance safety, operational efficiency, and environmental responsibility.

These regulations will provide a clear and enforceable framework that supports sustainable growth, fosters international trust, promote alignment with industry best practice and safeguards the long-term resilience of Kenya's UAS sector.

8.0 CHAPTER EIGHT – COMPLIANCE AND IMPLEMENTATION

The Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 establish critical guidelines for air operations, focusing on safety, security and compliance. Key components include:

1. Remote Aircraft Operator Certification (ROC) Requirements: Operators must adhere to specific safety standards and undergo a certification process.
2. Safety Management Systems (SMS): Robust SMS implementation is required for risk management, with regular audits for continuous improvement.
3. Personnel Qualifications: Minimum training and ongoing evaluation standards for Remote Pilots and operational personnel are mandated.
4. Aircraft Maintenance: Detailed maintenance records and compliance with guidelines to ensure airworthiness of UAS.
5. Operational Procedures: Standard operating procedures for normal, abnormal and emergency drills are essential.
6. Reporting: Mandatory and Voluntary reporting of UAS incidents, accidents and thorough documentation for audits and investigations are required.

8.1 Compliance Strategies

The Authority aims to develop collaboration initiatives with relevant national security organs to ensure vetting of persons and Organizations intending to engage in UAS operations. This ensures that the country remains secure even with the uptake of UAS technology by the public.

Further, staff training, regular audits, maintaining updated documentation, and engaging with regulatory Authorities for guidance will be enhanced through these reviewed regulations.

8.2 Implementation Timeline

Immediate actions involve reviewing practices, while short-term goals focus on training and updating manuals. Long-term strategies emphasize continuous monitoring and adaptation to regulatory changes.

In conclusion, adherence to these regulations is vital for aviation safety and operational efficiency, promoting a culture of safety and excellence within the industry.

9.0 CHAPTER NINE – CONCLUSIONS & RECOMMENDATIONS

9.1 Conclusions

Based on the above analysis, the following conclusions are drawn in respect on the draft Civil Aviation (Unmanned Aircraft Systems) Regulations 2024:

- 1.8.3 Regulations making mandate: Section 82 of the Civil Aviation Act empowers the Cabinet Secretary in Consultation to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air

navigation, air transport, air accident investigation and carrying out and giving effect to any convention.

1.8.3.1 Provisions of the Statutory Instruments Act: Section 5 requires that a regulation making authority to conduct public consultations and drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and to ensure that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content. Sections 6 and 7 require that a RIA be prepared where a statutory instrument is likely to impose significant costs on the community. This RIA thus contains certain the following key elements:

- (a) a statement of the objectives of the proposed legislation and the reasons.
- (b) a statement explaining the effect of the proposed legislation.
- (c) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options.
- (d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
- (e) the reasons why the other means are not appropriate.

1.8.3.2 The RIA structure and content requirements established in the Statutory Instruments Act requirements have been fully met. Additionally, public consultation requirements in respect of the Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 will be fully adhered to.

1.8.3.3 Other legal frameworks: The draft Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 proposes to publish regulations in harmony with other civil aviation regulations to effectively govern the civil aviation system in Kenya.

1.8.3.4 The draft: The draft Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 as drafted are clear, consistent, comprehensible and comprehensive enough to cover all matters and meet the established drafting standards.

9.2 Recommendations

In view of the above conclusions, it is recommended that the draft Civil Aviation (Unmanned Aircraft Systems) Regulations 2024 be adopted.

9.3 Annexures

The Draft Civil Aviation (Unmanned Aircraft Systems) Regulations 2024.
Matrix for stakeholder consultations.