



**REPUBLIC OF KENYA**

**MINISTRY OF ROADS AND TRANSPORT**

**REGULATORY IMPACT ASSESSMENT**  
**for the Civil Aviation (Personnel Licensing) Regulations, 2024**

This Regulatory Impact Assessment has been prepared by the Cabinet Secretary - Ministry of Roads and Transport pursuant to sections 6 and 7 of the Statutory Instruments Act, Cap. 2A

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## **1.0 Chapter One – Introduction**

### **Regulatory Authority and the Legal Mandate**

#### **1.1 The Civil Aviation Act**

Kenya Civil Aviation Authority (KCAA) is established under the Kenya Civil Aviation Act, Cap. 394 (the Act). The object and purpose for which the Authority was established is 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. It also has the primary functions to regulate and oversight 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.

Section 4 of the Act provides that the provisions of the Act and regulations made thereunder unless expressly excluded 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 power of the Cabinet Secretary responsible for aviation matters to make regulations 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 (Personnel Licensing) Regulations, 2024 have been developed under the Act.

Section 82(1) of the Act empowers the Cabinet Secretary responsible for 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 the Cabinet Secretary may make regulations for, among others:

- (a) 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;
- (b) 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;

- (c) 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 licences of specified kinds;
- (d) 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;
- (e) 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;
- (f) exempting any aircraft or persons or classes of aircraft or persons from the provisions of any regulations made under this Act;
- (g) 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 in the course of air navigation and occurring either in or over Kenya or occurring elsewhere to Kenya aircraft;
- (h) 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;
- (i) providing for the licensing, inspection and regulation of aerodromes, access to places where aircraft, have landed or may land, access to aircraft factories or maintenance establishments or places where aircraft parts and engines are maintained, for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof.
- (j) the design, construction, repair, overhaul, maintenance, operation and use of aircraft, maintenance and repair of facilities and related equipment; and
- (k) the control and operation of the aircraft within or directly above the aerodrome for the purpose of limiting or mitigating the effect of noise.

## 1.2 Statutory Instruments Act, Cap. 2A

KCAA now undertakes public and stakeholder consultations and presents this Regulatory Impact Assessment (RIA) in partial fulfilment of the requirements of the Statutory Instruments Act, Cap. 2A (SIA) which is the legal framework governing the conduct of RIA in Kenya.

The object of the 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.

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.

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:

- (a) a statement of the objectives of the proposed legislation and the reasons for them;
- (b) 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;
- (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;
- (e) the reasons why the other means are not appropriate;
- (f) any other matters specified by the guidelines; and
- (g) 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:

- (a) title of the proposal; the objective and intended effect of the regulatory policy;
- (b) an evaluation of the policy problem;
- (c) consideration of alternative options;
- (d) assessment of all their impacts distribution;
- (e) results of public consultation;
- (f) compliance strategies; and

(g) 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.

#### **1.4 International Legislation**

Kenya, by virtue of Article 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 (Personal Licensing) Regulations, 2024 correspond to the SARPs issued by ICAO as Annex 1 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 are therefore 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.

#### **1.5 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 fulfil the regional obligations to a safe, secure and economically viable air transport system.

## **2. Chapter Two – Objects and Purpose of the Civil Aviation (Personnel Licensing) Regulations, 2024**

### **2.1 Scope**

The proposed Civil Aviation (Personnel Licensing) Regulations, 2024 apply to persons licensed under any part of these Regulations, and shall also apply to any person who engages in an operation governed by any part of these Regulations without the appropriate licence, operations specifications, or similar document required as part of the certification.

### **2.2. Objective**

The overall objective of these Regulations is to provide a system of standards, processes and procedures aimed at ensuring that personnel undertaking safety related tasks in civil aviation (pilots, air traffic controllers, aircraft maintenance engineers, among others) are competent to perform their tasks to the prescribed standard.

### **2.3 Specific objectives**

The objective of these regulations is to provide for the:

- (a) licensing of aviation personnel;
- (b) monitoring and surveillance of aviation personnel;
- (c) monitoring and surveillance of designated personnel; and
- (d) establishment and maintenance of medical standards.

### **2.4 The Structure of the Proposed Civil Aviation (Personnel Licensing) Regulations, 2024**

The proposed Civil Aviation (Personnel Licensing) Regulations, 2024 provide a framework for the training, testing and licensing of various categories of aviation personnel, as well as for aviation medical standards. The regulations are divided into several parts, with the salient features as follows:

Part I - Preliminary Provisions

Part II - Licences, Certification, Ratings and Authorizations

Part III - Validation and Conversion of Foreign Flight Crew Licences and Recognition of Military Qualifications

Part IV - Validation and Conversion of Foreign Aircraft Maintenance Engineers Licences and Ratings, and Recognition of Military Qualifications

Part V - General Requirements – Training and Testing for Pilot Licences, Ratings and Authorizations

Part VI - Pilot Licences

Part VII - Pilot Ratings and Authorizations

Part VIII - Licences for Flight Crew other than Pilots



Part IX - Licences, Certificates and Ratings for Personnel other than Flight Crew Members

Part X - Aviation Medical Standards and Certificates

Part XI - Exemptions

Part XII - General Provisions

Part XIII - Offences and Penalties

## **SCHEDULES**

First Schedule - Specifications for Personnel Licences

Second Schedule - Language Proficiency Requirements

Third Schedule - Requirements for Multi-Crew Pilot Licences

Fourth Schedule - Air Traffic Safety Electronic Personnel

Fifth Schedule - Offences and Penalties

### 3 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 Vision 2030 aspires for 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:** The Bottom-Up Economic Transformation Agenda 2022-2027 (**BETA**) is the manifesto of the Kenya Kwanza administration that is being implemented from 2022 to 2027. It is built on six main pillars, to be being 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.

**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.

### 3.2 Constitutional and Legal Background

**The Constitution:** 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 with Article 46 providing 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 of State officers. Employees of the Authority are public officers and are bound by the various principles provided for in the Constitution. The regulations have largely provided for 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.

**Civil Aviation Act:** The Act 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.

**Civil Aviation Act, Cap. 394:** The Act 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 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 requires that the Cabinet Secretary to make regulations to give effect to and for the better carrying out of the objects and purposes of this Act and to provide generally for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention.

The Civil Aviation (Personnel Licensing) Regulations, 2024 enable KCAA to effectively discharge its mandate by establishing operational standards that ensure that the aviation system in Kenya is aligned to and conforms with the standards established internationally and applicable globally. The Regulations are therefore issued in fulfilment of the obligations set forth in the Civil Aviation Act and in support of the mandate of KCAA.

### **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 analysis, 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 manoeuvring 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 manoeuvre 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 (Personnel Licensing) 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 Chapter Four – Evaluation of the Problem**

### **4.1 Currency of the Civil Aviation (Personnel Licensing) Regulations 2024**

The Civil Aviation (Personnel Licensing) Regulations were last issued in 2018. Considering the changes in international requirements relating to licensing of personnel there is need to review the regulations and align them to international standards and incorporate all amendments to ICAO Annex 1 up to amendment 178.

A review of the 2018 regulations revealed a few provisions and definitions that had been overtaken by the requirements of the applicable international provisions. Unless revised there is the risk of implementing outdated standards and a possibility of a shortage of certified personnel. The review of the current Civil Aviation (Personnel Licensing) Regulations, 2018 therefore was to necessitate the realignment of such requirements including rewording of certain provisions to provide clarity of such requirements. A detailed tabulation of the changes to the regulations is captured in the Matrix annexed to this RIA.

### **4.2 Sustainability of Civil Aviation System**

#### **4.2.1 International Obligation**

As a ICAO contracting State, Kenya is expected to ensure that its aviation system operates in line with international standards at all times. The obligation to align national requirements to ICAO SARPs are captured in Articles 12 and 37 of the Convention and to ensure that the quality and competency of licensed personnel meets the requirements and facilitates their effective participation in international air navigation.

#### **4.2.2 Aviation Safety**

The Civil Aviation regulations are an important tool in establishing minimum safety requirements for operations within the aviation system. The adequacy and appropriateness of the regulations therefore is critical in ensuring the safety, efficiency and reliability of the aviation system in any country. This calls for the promulgation of regulations that provide a framework with the force of law and to guarantee that licensing requirements established in Kenya can allow the KCAA to issue credible licenses that enhance aviation safety.

#### **4.2.3 Operational rights to other jurisdictions**

The aviation industry is continuously becoming very competitive globally as such and in enforcement of their rights under Articles 6 and 40 to the Convention on International Civil Aviation, some States establish limitations for accessing their airspace based on compliance with ICAO requirements.

For the sustainability of the aviation industry in Kenya, it is critical that Kenya sustains the rights to operate in other jurisdictions, access new markets and contribute to the economic development of the country.

The currency, appropriateness and alignment of the Civil Aviation (Personnel Licensing) Regulations, 2018 to the latest provisions of ICAO Annex 1 of the Chicago Convention is important.

#### **4.2.4 Reduction of Cost of Doing Business**

Aviation safety, achieved through up-to-date regulations that are at par with the international standards. As part of the cost of doing business, aviation entities have to comply with expensive insurance costs that are compulsory in all jurisdictions. The cost of insurance is in many cases a factor of risks within the State or registry and operator of the Aircraft. Compliance with international standards and effective management of safety risks within the country will effectively reduce the cost of doing business for Kenyan operators and thus improve enhance the contribution of aviation sector to the Kenyan economy.



## **5 Chapter Five – Stakeholder Consultation**

### **5.1 Legal requirements relating to public participation and consultation**

The need to amend the Civil Aviation (Personal Licensing) Regulations, 2018 was necessitated by a series of ICAO State Letters informing the State of amendments to Annex 1 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 places emphasis on public participation as a fundamental principle of governance. Article 10 of the Constitution outlines the national 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 provides the right to public participation in legislative and other processes of the State. This ensures 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 engagement was conducted.

### **5.2 The Process of Public Consultation**

The first of a series of stakeholder meetings covering a set of eleven (11) civil aviation regulations was physically held at the Ole Sereni Hotel in Nairobi on 30th April 2019. The second stakeholders meeting was held hybrid (both physically at Four Points by Sheraton Hotel and virtually) between 14th – 18th June 2021. The third public engagement was a physical meeting with stakeholders held at the Emara Ole Sereni Hotel between 14th and 15th February 2022.

In each of the engagements, comments and input from stakeholders was taken and incorporated into the regulations as appropriate and the outcome presented in the succeeding engagement forum. To conclude stakeholder engagement, KCAA organized for a final regulations validation workshop at the Panari Hotel in Nairobi between 6th and 8th May 2024 to allow stakeholders to confirm that the Authority had considered and incorporated their comments and input in the final drafts of the regulations. This was the final activity that paved way for the review of the regulations to proceed to the next stage.

### **5.3 Public Notice and Awareness**

Each stakeholders engagement fora was advertised at least twenty-one (21) days before the date of the engagement in a major local daily in accordance with applicable requirements for stakeholder engagement. Additionally, formal notice of the same was posted on the KCAA official website. All sets of regulations to be discussed during the public participation fora were well spelt out in the adverts. An online registration form was

provided on the website in addition to a form to collect stakeholder comments which was uploaded alongside the regulations on the KCAA website [www.kcaa.or.ke](http://www.kcaa.or.ke).

#### **5.4 Public Participation Forum**

The physical stakeholder engagement was conducted at the Ole Sereni Hotel in Nairobi on 30th April 2019 and attended by 102 participants. The hybrid stakeholder engagement held between 14th and 18th June 2021 attracted a total attendance of 718 aviation stakeholders and members of the public. The stakeholder engagement reports, local daily newspaper adverts, copies of signed or digital attendance lists as applicable, Matrices containing input from stakeholders and how the same were incorporated in the regulations form annexures to this report.

#### **5.5 Analysis and Feedback**

The Authority received many memoranda from the industry and general public using the forms provided to collect stakeholder feedback. Some memoranda were delivered physically, in writing or by email. Memoranda received before stakeholder meetings were analysed, the Authority's response documented in a matrix and the same presented during the physical or virtual stakeholder engagement sessions.

Each comment was analysed feedback given to every input received from stakeholders initially on the floor of the physical or virtual engagement during question and-answer sessions which came immediately after presentations of the regulation, or in writing where stakeholder input and comments were received in writing or after the engagement sessions.

For stakeholder input and comments requiring substantial analysis and amendment to draft regulations, the stakeholders were invited to shed more light on their comments and requests through physical or virtual meetings, in writing or email. Their input was then discussed and analysed together with the drafters of the regulations and where consensus was reached, the regulations were either redrafted to incorporate their input or retained in cases where taking the stakeholder comments would contravene ICAO standards or international standards and practices.

The Authority kept in touch with stakeholders at all stages of the development of the regulations ensuring that they were fully involved and part of the process.

#### **5.6 Credibility and Integrity of the Process**

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

- (a) did not engage in conduct involving dishonesty, fraud, deceit, misrepresentation or discrimination and avoided relationships or actions which could be legitimately interpreted as a conflict of interest; and
- (b) took into consideration the social and economic status, religious beliefs, ethnicity, and other social diversities of those engaging in public participation.

Any complaint arising from the public participation process was to be referred to the Director-General and resolved as appropriate including provision of additional time and contact to address any stakeholders concerns. However, no complaint was received.



## 6. Chapter Six – Cost Benefit Analysis

Cost-benefit analysis (CBA) is a tool used by regulatory decision makers in this case KCAA) to identify the costs and benefits, in financial terms, of a proposed regulation to society as a whole.

Section 7(1)(d) of the Statutory Instruments Act provides that a regulatory impact statement shall include an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives in clear and precise language.

The proposed Civil Aviation (Personnel Licensing) Regulations, 2024 aim to provide a legal framework that guarantees licensing requirements established in Kenya can allow the KCAA to issue credible licences that enhance aviation safety, efficiency, and sustainability of the aviation industry by aligning national standards with international best practices.

The table below summarizes the challenges that promulgation of new regulations is supposed to address, the proposed amendments as well as the attached benefits and costs.

### 6.1 Costs and Benefits Generally

#### Benefits

- (a) The regulations will help elevate the level of professionalism within the aviation industry in Kenya by ensuring that the eligibility requirements and processes of issuance of aviation licenses adhere to international standards.
- (b) The regulations would also benefit consumers of aviation services by ensuring that they are served by professionals who meet international standards, and thus creating confidence in the industry.

#### 6.1.1 Costs

There are no costs related with implementation of the Civil Aviation (Personnel Licensing) Regulations, 2024.

**Table 1 Cost and Benefit Analysis**

| PROBLEM                                 | PROPOSED REFORM                                          | BENEFITS                                                                       | COST |
|-----------------------------------------|----------------------------------------------------------|--------------------------------------------------------------------------------|------|
| Outdated 2018 regulations               | Proposed 2024 regulations                                | Regulatory framework aligned with international standards                      | Nil  |
| Definitions not in aligned with Annex 1 | Definitions now aligned with the amendment 178 of Annex1 | Definitions providing for clear and unambiguous interpretation of regulations. | Nil  |
| Periods of                              | Periods of validity of licences                          | Licence holders and operators                                                  | Nil  |



| <b>PROBLEM</b>                                    | <b>PROPOSED REFORM</b>                                                          | <b>BENEFITS</b>                                                                                              | <b>COST</b> |
|---------------------------------------------------|---------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|-------------|
| validity of licences                              | extended to longer periods.                                                     | benefit from longer validity of licences.                                                                    |             |
| AMEL categories A, C, X, R no longer used         | AMEL categories now aligned with the B1/B2 licensing system                     | Simplified licensing process for Aircraft Maintenance Engineers and aligned to international best standards. | Nil         |
| Aeronautical Station Operator licence not covered | Includes the requirements for issuance of Aeronautical Station Operator licence | Alignment with international requirements with Annex 1.                                                      | Nil         |

## 6.2 Consideration of Alternatives to the Civil Aviation (Personnel Licensing) Regulations 2024

**Table 2 Alternative Options**

| <b>Option</b>                                                                               | <b>Impact</b>                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Option One: Maintenance of the Status Quo</b>                                            | Maintaining the status quo would mean that no regulations are developed, thus the challenges of currency and keeping up with the international obligations and requirements will not be addressed                                                                           |
| <b>Option Two: Administrative measures</b>                                                  | Issuance of directives and circulars to the various entities and hoping that they will be implemented. Administrative measures do not have the force of law and may be challenged in court of law. These include Advisory Circulars and Aeronautical Information Circulars. |
| <b>Option Three: Promulgating the Civil Aviation (Personnel Licensing) Regulations 2024</b> | The promulgation of the Civil Aviation (Personnel Licensing) Regulations will ensure that the Kenyan aviation licensing requirements and system are aligned with the ICAO SARPs as well as with international best practices.                                               |

### 6.3 Impact Analysis of the Options

**Table 3**

| <b>Aviation Sector</b>   | <b>Option one: Maintenance of the Status Quo</b>                                               | <b>Option two: Administrative measures</b>                                                  | <b>Option three: Promulgating the Civil Aviation (Personnel Licensing) Regulations 2024</b>                |
|--------------------------|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| Personnel                | Shorter license validity periods lead to higher renewal costs.                                 | Implementation challenges due to lack of enforceability.                                    | Longer license validity periods aligned to international requirements and lower costs for license holders. |
| Maintenance Organization | Lack of enough licensed personnel                                                              | Not possible to issue licenses anchored in administrative procedures                        | Compliance with international best practices                                                               |
| Air Operator             | Longer periods spent by pilots when attending to medical renewal appointments                  | Ineffective implementation due to lack of enforceability.                                   | Compliance with standards set out in ICAO Annex 1 amendment 178                                            |
| The State                | Poor safety reputation due to outdated national requirements.                                  | Ineffective implementation of requirements due to lack of enforceability.                   | Aligned national requirements enhancing the State reputation.                                              |
| The Authority            | Poor implementation of international requirements relating to licensing of aviation personnel. | Ineffective implementation of requirements with lack of enforceability of the requirements. | Aligned national regulations and enhances safety standards for the national civil aviation system.         |

### 6.4 Preferred Option

Based on the above analysis, it is clear that the third option, i.e. promulgation of the Civil Aviation (Personnel Licensing) Regulations, 2024 remains the preferred option. The benefits and impact of promulgating the regulations far out-weigh any estimated or actual costs of its implementation, if any. The other two options (status quo and administrative actions) will have a negative impact in addressing the problem.

## **7. Chapter Seven – Compliance and Implementation**

As different aspects of the proposed Civil Aviation (Personnel Licensing) Regulations 2024 are evaluated and analysed, it is important to determine how compliance and implementation of the actual provisions will be achieved.

It remains the duty of the regulator, in this case KCAA, to assess the adequacy of the institutional framework through which the regulations will take effect, and design responsive implementation strategies that make the best use of them. In an ideal situation, an institution responsible for enforcement of regulations should have the capacity of co-ordination of institutional frameworks from a whole-of-government perspective, independence and with sufficient authority.

KCAA also has put in place a plan as outlined in the Strategic Plan 2023/24-2027/2028 to strengthen its institutional capacity to enable it enforce full compliance with the proposed Regulations once they are published.



## **8. Chapter Eight – Conclusions & Recommendations**

### **8.1 Conclusions**

- 8.1.1 Based on the above analysis, the following conclusions are drawn in respect of the draft Civil Aviation (Personnel Licensing) Regulations, 2024:
- 8.1.2 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.
- 8.1.2.1 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.
- 8.1.2.2 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 (Personnel Licensing) Regulations have been fully adhered to.
- 8.1.2.3 Other legal frameworks: The draft Civil Aviation (Personnel Licensing) Regulations, 2024 proposes to publish regulations in harmony with other civil aviation regulations to effectively govern the civil aviation system in Kenya.

8.1.2.4 The Civil Aviation (Personnel Licensing) Regulations, 2024 as drafted are clear, consistent, comprehensible and comprehensive enough to cover all matters and meet the established drafting standards.

## **8.2 Recommendations**

8.2.1 In view of the above conclusions, it is recommended that the draft Civil Aviation (Personnel Licensing) Regulations, 2024 be adopted.

## **9. Annexures**

**9.1** The Draft Civil Aviation (Personnel Licensing) Regulations, 2024

**9.2** Matrix for stakeholder consultations