



## MINISTRY OF ROADS AND TRANSPORT

### EXPLANATORY MEMORANDUM TO THE CIVIL AVIATION (RULES OF THE AIR) REGULATIONS, 2025

|                                  |                                                                                                  |
|----------------------------------|--------------------------------------------------------------------------------------------------|
| Name of the statutory instrument | Kenya Gazette Supplement No. .... <sup>74</sup><br>Legislative Supplement No. .... <sup>48</sup> |
| Name of the Parent Act           | The Civil Aviation Act (CAP 394)                                                                 |
| Enacted Pursuant to              | Section 82                                                                                       |
| Name of the Ministry             | Ministry of Roads and Transport                                                                  |
| Gazetted on                      | ....., 2025                                                                                      |
| Tabled on                        |                                                                                                  |

#### 1. Purpose of the Statutory Instrument

The purpose of the instrument is to provide the regulatory framework to facilitate the safe, controlled and regulated manner for the requirements that every aircraft flying over or maneuvering within Kenya and every aircraft carrying Kenya's nationality mark, wherever such aircraft may be, to comply with so as to promote air safety, whilst also supporting a healthy, sustainable and efficient air transport system. It defines the requirements for compliance by pilots of aircraft whether the provision of Air Traffic Services is available or not available, as issued by the Kenya Civil Aviation Authority under the Civil Aviation Act.

#### 2. Legislative Context

Rules of the air in civil aviation are a critical component to the management of safe and secure operations within the civil aviation industry. Rules of the air form an

original line of defense against risks that reside within the operational environment as it ensures safe operations of aircraft within the Kenyan airspace. The International Civil Aviation Organization (ICAO) has published an Annex 2 to the Convention on International Civil Aviation which provides international Standards and Recommended Practices (SARPs) as a basis for Contracting States to develop Rules of the Air regulations. Kenya as a signatory of the Chicago Convention and a member of ICAO has undertaken to comply with these SARPs by ensuring their effective implementation within the Kenyan aviation industry as is its obligation under Article 37 to the Convention. To fulfil this obligation, passing of the Rules of the Air Regulations is critical to ensure compliance with ICAO requirements.

### **3. Policy Background**

The purpose of the Civil Aviation Act is to ensure “control, regulation and orderly development of civil aviation in Kenya”. The Act establishes the Kenya Civil Aviation Authority (KCAA) whose object and purpose is to economically and efficiently plan, develop and manage civil aviation.

Rules of the Air is a critical safety component of the civil aviation system, hence the need for effective regulation of the Rules of the Air within the civil aviation system to meet international standards established by ICAO. It is Kenya’s policy to promote and facilitate civil aviation activities by ensuring flights are operated in a safe and orderly manner under the Rules of the Air Regulations. The objective of these regulations therefore is to provide a regulatory framework to support the safe operation of air traffic within the civil aviation sector throughout the country. This policy is consistent with the existing legislation and will assist in the development of specific regulations for rules of the air.

The Integrated National Transport Policy, 2012, aims to create an enabling framework that will nurture the development of a safe, efficient and affordable air transport system, whilst keeping at the leading edge of technological advancement in a rapidly changing and global environment. In addition, the Kenya Civil Aviation Authority developed procedures for development and amendment of the Civil Aviation Act, Regulations, and Technical Guidance Materials through Order CAA-O-GEN002F. The procedures provide for continuous monitoring of the aviation

regulatory framework to align with ICAO SARPs through periodic review of applicable laws.

#### **4. Consultation Outcome**

In the development of the Rules of the Air Regulations stakeholder engagement meetings were held on various dates as follows:

- a) Stakeholder Engagement - Virtual Session (14th to 18th June 2021 at the Four Points Hotel, Nairobi);
- b) Stakeholder Engagement - 14th and 15th February 2022 the Ole Sereni Hotel, Nairobi; and
- c) Stakeholder Sensitization and Validation Engagements (6th to 8th May 2024 and 12th to 14th June 2024 at the Panari Hotel, Nairobi).

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

#### **5. Regulatory Impact Assessment**

A regulatory impact assessment was prepared in respect of this statutory instrument. The Ministry received an expert opinion from the Kenya Law Reform Commission confirming that the regulatory impact statement and assessment were adequate and conformed with the Statutory Instruments Act.

#### **6. Monitoring and Review**

As part of the KCAA mandate provided for under the Civil Aviation Act, shall be responsible for ensuring the effective implementation of the Rules of the Air Regulations.

#### **7. Contact**

The contact person in respect of this statutory instrument is:

Mr. Emile Nguza Arao  
Director General  
Kenya Civil Aviation Authority  
PO Box 30163 – 00100  
NAIROBI  
[info@kcaa.or.ke](mailto:info@kcaa.or.ke)