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DEVELOPMENT AND PUBLIC WORKS**

**EXPLANATORY MEMORANDUM ON LINKED STATUTORY
INSTRUMENTS BEING THE KENYA CIVIL AVIATION AUTHORITY
REGULATIONS, 2018**

Name of the statutory instruments:

Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2018 Kenya Gazette Supplement No. 48 Legislative Supplement No. 18, Legal Notice No. 89
Civil Aviation (Airworthiness) Regulations, 2018 Kenya Gazette Supplement No. 99 Legislative Supplement No. 49, Legal Notice No. 90
Civil Aviation (Safety Management) Regulations, 2018 Kenya Gazette Supplement No. 50 Legislative Supplement No. 20, Legal Notice No. 91
Civil Aviation (Air Operator Certification and Administration) Regulations, 2018 Kenya Gazette Supplement No. 92 Legislative Supplement No. 51, Legal Notice No. 92

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 18 SEP 2019 DAY: TUESDAY
TABLED BY: MAJORITY LEADER
CLERK-AT-THE-TABLE: [Signature]

<p>Civil Aviation (Approved Training Organizations) Regulations, 2018 Kenya Gazette Supplement No. 92 Legislative Supplement No. 52, Legal Notice No. 93</p>
<p>Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018 Kenya Gazette Supplement No. 94 Legislative Supplement No. 53, Legal Notice No. 94</p>
<p>Civil Aviation (Personnel Licensing) Regulations, 2018 Kenya Gazette Supplement No. 95 Legislative Supplement No. 57, Legal Notice No. 95</p>
<p>Civil Aviation (Approved Maintenance Organizations) Regulations, 2018 Kenya Gazette Supplement No. 96 Legislative Supplement No. 58, Legal Notice No. 96</p>
<p>Civil Aviation (Operation of Aircraft - helicopter) Regulations, 2018 Kenya Gazette Supplement No. 97 Legislative Supplement No. 26, Legal Notice No. 97</p>
<p>Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018 Kenya Gazette Supplement No. 119 Legislative Supplement No. 68, Legal Notice No. 119</p>

Civil Aviation (Units of Measurement To Be Used In Air And Ground Operations) Regulations, 2018
Kenya Gazette Supplement No. 120
Legislative Supplement No. 68,
Legal Notice No. 120

Civil Aviation (Construction Of Visual And Instrument Flight Procedures) Regulations, 2018
Kenya Gazette Supplement No. 121
Legislative Supplement No. 68,
Legal Notice No. 121

Civil Aviation (Rules Of The Air) Regulations, 2018
Kenya Gazette Supplement No. 71
Legislative Supplement No. 32,
Legal Notice No. 124

Civil Aviation (Certification Of Air Navigation Service Providers) Regulations, 2018
Kenya Gazette Supplement No. 72
Legislative Supplement No. 32,
Legal Notice No. 125

Civil Aviation (Operation Of Aircraft For Commercial Air Transport) Regulations, 2018
Kenya Gazette Supplement No. 72
Legislative Supplement No. 33,
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Civil Aviation (Certification, Licensing And Registration Of Aerodromes) Regulations, 2018
Kenya Gazette Supplement No. 82
Legislative Supplement No. 82,
Legal Notice No. 129

Civil Aviation (Instruments And Equipment) Regulations, 2018
Kenya Gazette Supplement No. 84
Legislative Supplement No. 84,
Legal Notice No. 131

Civil Aviation (Aeronautical Information Services) Regulations, 2018
Kenya Gazette Supplement No. 85
Legislative Supplement No. 39,
Legal Notice No. 132

Civil Aviation (Surveillance And Collision Avoidance Systems) Regulations, 2018
Kenya Gazette Supplement No. 86
Legislative Supplement No. 40,
Legal Notice No. 133

Civil Aviation (Aeronautical Charts) Regulations, 2018
Kenya Gazette Supplement No. 87
Legislative Supplement No. 41,
Legal Notice No. 134

Civil Aviation (Aeronautical Charts) Regulations, 2018
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Legal Notice No. 134

Civil Aviation (Communication Procedures) Regulations, 2018
Kenya Gazette Supplement No. 88
Legislative Supplement No. 42,
Legal Notice No. 135

Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018
Kenya Gazette Supplement No. 88
Legislative Supplement No. 42,
Legal Notice No. 135

Civil Aviation (Aeronautical Radio Frequency Spectrum Utilization) Regulations, 2018
Kenya Gazette Supplement No. 90
Legislative Supplement No. 44,
Legal Notice No. 137

Civil Aviation (Radio Navigation Aids) Regulations, 2018
Kenya Gazette Supplement No. 92
Legislative Supplement No. 46,
Legal Notice No. 145

Civil Aviation (Communication Systems) Regulations, 2018
Kenya Gazette Supplement No. 93
Legislative Supplement No. 47,
Legal Notice No. 146

Civil Aviation (Operation Of Aircraft - General Aviation - Aeroplanes) Regulations, 2018
Kenya Gazette Supplement No. 100
Legislative Supplement No. 52,
Legal Notice No. 165

Civil Aviation (Surveillance And Collision Avoidance Systems) Regulations, 2018
Kenya Gazette Supplement No. 86
Legislative Supplement No. 40,
Legal Notice No. 133

Civil Aviation (Licensing Of Air Services) Regulations, 2018
Kenya Gazette Supplement No. 103
Legislative Supplement No. 54,
Legal Notice No. 167

Name of the Parent Act : The Civil Aviation Act (No. 21 of 2013)
Enacted Pursuant to : Section 82 of the Civil Aviation Act
(No. 21 of 2013)
Name of the Ministry : Ministry of Transport, Infrastructure,
Housing, Urban Development and Public
Works
Gazette date : Various

1. Purpose of each of the Linked Statutory Instruments

(i) Civil Aviation (Airworthiness) Regulations, 2018

- a. Gazette date 4th May, 2018.
- b. These Regulations repeal and replace the Civil Aviation (Airworthiness) Regulations 2013.
- c. The Regulations provide for the standards to be observed to ensure an aircraft is airworthy before operations and applies to all Kenyan Registered Aircraft and Foreign aircraft operating in Kenya.

(ii) **Civil Aviation (Air Operator Certification and Administration) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. The Regulations repeal and replace the Civil Aviation (Air Operator Certification and Administration) Regulations, 2013.
- c. The Regulations prescribe requirements for the original certification and continued validity of an Air Operator Certificate (AOC) issued by KCAA and apply to air operators carrying passengers, cargo or mail for remuneration or hire whose principal place of business or permanent residence is located in Kenya.

(iii) **Civil Aviation (Approved Training Organizations) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Approved Training Organization) Regulations, 2013.
- c. The Regulations governs all entities that provide approved aviation training or courses that need specific approval from KCAA and offered to the general public.

(iv) **Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2018**

- a. Gazette date 4th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Aircraft Nationality and Registration Marks) Regulations, 2013.
- c. The Regulations governs the registration and re-registration of aircraft and allocation of nationality marks. (the 5Y- mark for Kenyan aircraft)
- d. The Regulations domesticates ICAO Annex 7 Aircraft Nationality and Registration Marks.

- (v) **Civil Aviation (Approved Maintenance Organizations) Regulation, 2018**
 - a. Gazette date 4th May, 2018.
 - b. These are Regulations that were previously covered under the Civil Aviation (Approved Maintenance Organizations) Regulations, 2013.
 - c. The Regulations governs the certification of organizations that undertake maintenance of aircraft.

- (vi) **Civil Aviation (Safety Management) Regulations, 2018**
 - a. Gazette date 4th May, 2018
 - b. These are Regulations that were previously covered under the Civil Aviation (Safety Management Systems) Regulations, 2015.
 - c. The Regulations govern safety management functions related to, or in direct support of, the safe operation of aircraft.
 - d. The Regulations domesticates ICAO Annex 19.

- (vii) **Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2018**
 - a. Gazette date 4th May, 2018.
 - b. These are new Regulations that were previously covered under the Civil Aviation (Aircraft Accident and Incident Investigation) Regulations, 2013.
 - c. The Regulations govern the conduct of all aircraft accidents and investigations in Kenya.
 - d. The Regulations domesticates ICAO Annex 7.

(viii) **Civil Aviation (Personnel Licensing) Regulations, 2018**

- a. Gazette date 10th May, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Personnel Licensing) Regulations, 2013.
- c. The Regulations governs the issuance of the various types of licenses to aviation personnel such as pilots, air traffic controllers and aircraft engineers.
- d. The Regulations domesticates ICAO Annex 1 Personnel Licensing.

(ix) **Civil Aviation (Helicopter Operations) Regulations, 2018**

- a. Gazette date 16th May, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
- c. The Regulations governs all entities that undertake commercial operations of helicopters in and out of Kenya.
- d. The Regulations domesticates ICAO Annex 6 Part III - Operation of Aircraft - Commercial Helicopters.

(x) **Civil Aviation (Aeronautical Search and Rescue) Regulations, 2018**

- a. Gazette date 31st May, 2018.
- b. These are new Regulations that were previously covered under the Section 72 to 81 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to all aircraft requiring Aeronautical Search and Rescue services and to persons or organizations responsible for the maintenance and operation of Aeronautical Search and Rescue services in Kenya and in areas over the high seas to which Kenya has been given responsibility under the regional air navigation plan.

- d. The Regulations domesticates ICAO requirements for aircraft search and rescue operations.

(xi) **Civil Aviation (Construction Of Visual And Instrument Flight Procedures) Regulations, 2018**

- a. Gazette date 31st May, 2018
- b. These are new Regulations that were previously covered under the Section 95 to 98 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to all entities providing Flight Procedure Design Services within certificated airspaces and at aerodromes for civil aviation purposes.
- d. The Regulations govern activities relating to specification, parameters of construction of visual and instrument flight procedures.

(xii) **Civil Aviation (Units Of Measurement To Be Used In Air And Ground Operations) Regulations, 2018**

- a. Gazette date 31st May, 2018
- b. These are new Regulations that were previously covered under the Section 26 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern the scientific parameters to and units used in aviation.
- d. The Regulations domesticates ICAO Annex 5 Units of Measurement to be used in Air and Ground Operations.

(xiii) **Civil Aviation (Operation Of Aircraft - Commercial Air Transport Aeroplanes) Regulations, 2018**

- a. Gazette date 8th June, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
- c. The Regulations governs all entities that undertake commercial air transport in and out of Kenya.
- d. The Regulations provide for standards to be observed by all operators undertaking commercial operations in Kenya.
- e. The Regulations domesticates ICAO Annex 6 Part I - Operation of Aircraft - Commercial Air Transport Aeroplanes.

(xiv) **Civil Aviation (Rules of the Air) Regulations, 2018**

- a. Gazette date 8th June, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Rules of the Air) Regulations, 2013 and are applicable to:
 - i. Every person and every aircraft, including state aircraft (government owned, military and police aircraft in Kenya).
 - ii. They apply to all aircraft bearing the nationality and registration marks of Kenya, wherever it may be, to the extent that they do not conflict with the rules published by the State having jurisdiction over the territory overflown.
 - iii. They also apply in full to all aircraft flying over the high seas.
- c. The Regulations governs the flying and maneuvering of aircraft while in the airspace that is a Kenya shared resource.
- d. The Regulations domesticates ICAO Annex 2 Rules of the Air.

(xv) **Civil Aviation (Certification of Air Navigation Service Providers) Regulations, 2018**

- a. Gazette date 8th June, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern entities that provide or seek to provide air navigation services within designated air spaces and at aerodromes.
- d. The Regulations provide for provision of air navigation services to aviation users.

(xvi) **Civil Aviation (Aerodrome Certification, Licensing and Registration) Regulations, 2018**

- a. Gazette date 22nd June, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.
- c. The Regulations outlines the various types of aerodromes and conditions to be met by an applicant who intends to set up any of the aerodrome categories.

(xvii) **Civil Aviation (Aeronautical Information Services) Regulations, 2018.**

- a. Gazette date on 27th June, 2018.
- b. These are new Regulations that were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to all aeronautical information services providers.
- d. The Regulations domesticates ICAO Annex 15 Aeronautical Information Services.

(xviii) **Civil Aviation (Instruments and Equipment) Regulations, 2018.**

- a. Gazette date 28th June, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Instruments and Equipment) Regulations, 2013.
- c. The Regulations prescribe the instruments and equipment required on an aircraft to enable the undertaking of safe operations.
- d. The Regulations govern the standards applicable on all instruments and equipment carried on board an aircraft.
- e. The Regulations domesticates ICAO requirements for an aircraft to be deemed airworthy.

(xix) **Civil Aviation (Air Traffic Services) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 28 to 44 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern the various activities relating to provision of air traffic services related to aerodrome control service; approach control service; approach radar control service; area control service; en-route radar control service; flight information service; and alerting service.
- d. The Regulations shall not apply to a person providing air traffic services in the course of his or her duties to state aircraft.
- e. The Regulations domesticates ICAO Annex 11 Air Traffic Services.

(xx) **Civil Aviation (Surveillance and Collision Avoidance Systems) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 45 to 64 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern systems that observe surveillance on all aircrafts as well as ensuring minimal chances of collisions.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol IV Surveillance and Collision Avoidance Systems.

(xxi) **Civil Aviation (Radio Frequency Spectrum Utilization) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 45 to 64 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern utilization of radio frequency spectrums used in aviation.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol V Radio Frequency Spectrum Utilization.

(xxii) **Civil Aviation (Communication Procedures) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 55 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations govern communication procedures used by all airmen in aviation.

- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol II Communication Procedures including those with PANS Status.

(xxiii) **Civil Aviation (Aeronautical Charts) Regulations, 2018**

- a. Gazette date 28th June, 2018
- b. These are new Regulations that were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to a person or entity providing an aeronautical cartographic service within designated airspaces and at aerodromes for civil aviation purposes in Kenya.
- d. The Regulations govern the production, publishing and standards for the development of all charts used in an aircraft.
- e. The Regulations domesticates ICAO Annex 4 Aeronautical Charts.

(xxiv) **Civil Aviation (Communication Systems) Regulations, 2018**

- a. Gazette date on 3rd July, 2018.
- b. These are new Regulations that were previously covered under the Section 65 to 71 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations apply to a person or entity providing Communication, Navigation and Surveillance Services within designated air spaces and at aerodromes.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol III Communication Systems.

(xxv) **Civil Aviation (Meteorology Services for Air Navigation) Regulations, 2018**

- a. Gazette date on 10th July, 2018.
- b. These are new Regulations that were previously covered under the Section 82 to 94 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations provides for meteorology services provision and apply to persons or entities providing Meteorological services for air navigation services within Kenya air spaces and at aerodromes.
- d. The Regulations domesticates ICAO Annex 3.

(xxvi) **Civil Aviation (Radio Navigation Aids) Regulations, 2018**

- a. Gazette date on 10th July, 2018.
- b. These are new Regulations that were previously covered under the Section 49 of the Civil Aviation (Air Navigation Services) Regulations, 2013.
- c. The Regulations provides for radio navigation aids used by an aircraft.
- d. The Regulations domesticates ICAO Annex 10 Aeronautical Telecommunication Vol I Radio Navigation Aids.

(xxvii) **Civil Aviation (Operation Of Aircraft - General Aviation) Regulations, 2018**

- a. Gazette date 10th July, 2018.
- b. These are new Regulations that were previously covered under the Civil Aviation (Operation of Aircraft) Regulations, 2013.
- c. The Regulations governs all entities that undertake operation of aircrafts for private or non-commercial purposes.
- d. The Regulations domesticates ICAO Annex 6 Part III - Operation of Aircraft – General Aviation.

(xxviii) **Civil Aviation (Licensing of Air Services) Regulations, 2018.**

- a. Gazette date 18th July, 2018.
- b. These are Regulations that were previously covered under the Civil Aviation (Licensing of Air Services) Regulations, 2009.
- c. The Regulations governs the issuance of Air Service Licenses that enable and operator to operate a specific route. The regulations provide for the economic and business plan requirements for all operators who intend to undertake operations in Kenya.

(xxix) **Civil Aviation (Aerodrome Design and Operations) Regulations, 2018**

- a. These are new Regulations that were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.
- b. The Regulations outlines the technical requirements for any aerodrome and further outline the minimum operational requirements upon licensing of an aerodrome.
- c. The Regulations domesticates ICAO Annex 14 Aerodromes, Volume I Design and Operations.

(xxx) **Civil Aviation (Heliports) Regulations, 2018**

- a. These are new Regulations that were previously covered under the Civil Aviation (Aerodromes) Regulations, 2013.
- b. The Regulations govern all heliports in Kenya and outline the technical requirements for any heliport and further outline the minimum operational requirements upon licensing of a heliport.
- c. The Regulations domesticates ICAO Annex 14 Aerodromes Volume II Heliports.

2. Collective Purpose the Linked Statutory Instruments

The purpose of the linked statutory instruments (KCARS 2018) is to provide the regulatory framework to facilitate the safe, controlled and regulated operations of aircraft in the country.

Kenya as a signatory to the Convention on International Civil Aviation (Chicago Convention) is required to apply International Standards and Recommended Practices (SARPs). The SARPs are contained in Annexes to the Chicago Convention.

The KCARS 2018 lay down rules and requirements for the safe and secure conduct of aviation activities in Kenya.

The KCARS allow Kenya to fulfil international obligations for safety of international air transport systems.

The combined regulatory framework domesticates the International Standards and Recommended Practices that are up to date. i.e. November, 2018.

3. Legislative Context

The Constitution of Kenya Article 2(6) provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under the Constitution.

Kenya is a signatory to the Convention on International Civil Aviation (Chicago Convention) and as such is required to comply with the requirements that includes the Annexes to the Chicago Convention that are domesticated through the Kenya Civil Aviation Regulations, 2018 (KCARS).

The Civil Aviation Act, 2013 as amended by the Civil Aviation (Amendment) Act 2016 allows for the making of Regulations to effectively and efficiently manage aviation in Kenya.

The KCARS are a reflection of the international Standards and Recommended Practices.

4. Policy Background

The Civil Aviation Act, 2013 as amended by the Civil Aviation (Amendment) Act, 2016 seeks to provide for the control, regulation and orderly development of civil aviation in Kenya.

The international standards and recommended practices in the aviation industry that are domesticated through the KCARs are promulgated by the Cabinet Secretary to ensure orderly development and promotion of aviation safety and security.

The KCARs are a reflection of the latest versions of the ICAO Annexes. This was confirmed by the recent ICAO Universal Safety Oversight Program – Continuous Monitoring Approach (USOAP-CMA) Audit on Kenya that was undertaken between 2nd and 12th July, 2018 culminating in a score of 78.02% from the 2013 ICAO Continuous Monitoring Approach Coordinated Validation Mission (ICVM) Audit where Kenya scored 78.57%.

The enactment of KCARs 2018 was extremely instrumental in the enabling of Kenya pass the USOAP-CMA Audit as well as avoid findings in the regulatory arm of the CAA that would have occasioned the grounding of all international flights. The KCARs 2018 provided the legal framework from which all the critical elements in aviation emanate from.

5. Consultation Outcome

The Kenya Civil Aviation Authority held stakeholders' consultations from the 12th to 14th July, 2017 in Nairobi where input was received from the aviation industry on the KCARs.

The Accident and Incident Investigation Department that is domiciled at the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works undertook its stakeholder sensitization on 10th October, 2017.

KCAA was in addition receiving written input from the stakeholders who were not able to participate in the stakeholders' forum.

The comments and input from the stakeholders was compiled by the KCAA team from 17th to 29th July, 2017.

The Final versions were posted on the KCAA website for input (if any) on the final version of the Regulations.

The stakeholders were in support of the KCARs structure that was adopted whereby, for the first time, the Regulations were able to address specific areas of the industry, for example, Operation of Aircrafts was split into three i.e. Commercial Operations, General Operations and Helicopter Operations.

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

6. Impact

KCAA has been implementing the KCARs 2018 over a transitory period of 1 year with an aim of identifying the areas of success and challenges occasioned by the transition from KCARs 2013 to KCARs 2018.

This is a continuous process whose results will be compiled and Kenya will be able to report back to the International Civil Aviation Organization on implementation as well as file differences where applicable.

7. Monitoring and review

KCAA is closely monitoring implementation and has identified areas and events that may warrant review i.e.

- a) Upon receipt and assessment of amendments to relevant ICAO Annexes and Procedures for Air Navigation Services (PANS) that necessitate a change of applicable KCARs 2018;
- b) Upon amendment to Civil Aviation Act that necessitates amendment to KCARs 2018;
- c) Upon receipt of request/information from stakeholders regarding the application and/or implementation of the regulation that promote safe and secure aviation operations;
- d) Significant change in the size and complexity of the aviation system in Kenya;
- e) Change in technology that warrant to review of KCARs 2018;
- f) Review for purposes of enhancing efficiency of the safety oversight system.

8. Contact

The contact person at Kenya Civil Aviation Authority, Capt. Gilbert M. Kibe (gmkibe@kcaa.or.ke, +254 722 51467) or the Director Aviation Safety, Security and Regulations, Capt. Tom Ogenche (togenche@kcaa.or.ke , +254 722 522 340) may be contacted in case of any questions or clarifications.

