LEGAL NOTICE

THE CIVIL AVIATION ACT

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY PROVISIONS

1. Citation.
2. Interpretation.
3. Application.

PART II

CERTIFICATION OF AIR NAVIGATION SERVICE PROVIDER

4. Requirements for the provision of air navigation services.
5. Application for certificate.
7. Contents of the certificate.
8. Validity of a certificate.
9. Renewal of certificate.
10. Surrender of certificate.
11. Amendment of certificate.
14. Suspension, variation and cancellation of certificates.
15. Register of certificate holders.

PART III

MANUAL OF AIR NAVIGATION SERVICES OPERATIONS

16. Requirements for the manual of ANS operations.
18. Amendment of the manual of ANS operations.

PART IV

AIR NAVIGATION SERVICES

19. Provision of air navigation services.
20. Air navigation services facilities and standard systems.
23. Access to air navigation facilities.
24. Production of documents.
27. Units of Measurement.

(a) Air Traffic Services

29. Classification of airspace.
30. Determination of the need for the provision of air traffic services.
31. Provision of air traffic services.
32. Categories of air traffic services.
33. Coordination in air traffic services.
34. Status of operation of air traffic service services facility.
35. Responsibility for control.
36. Communication requirements.
37. Air Traffic Incidents.
38. Aircraft in distress.
39. Automatic recording of ATS data and communications.
40. Determination, reporting, maintenance and protection of air traffic services-related aeronautical data.
41. Safety management system.
42. Performance based navigation (PBN) operations.
43. Required communication performance.
44. Provision of air traffic services to aircraft in emergency.

(b) Communication, Navigation and Surveillance

45. Approval Requirement.
46. Provision of CNS Service.
47. Personnel Requirement.
48. Proficiency certification program.
49. Installation, operation and maintenance of Communication, Navigation and Surveillance systems.
50. Flight inspection.
51. Periodic Inspection and Testing.
52. Test Equipment.
53. Operational status of Communication, Navigation and Surveillance systems
54. Power supply.
55. Security of Communication, Navigation and Surveillance facilities
56. Communication Procedures.
57. Documentation.
58. Record keeping.
59. Facility Malfunction Incident Reporting.
60. Radio Interference Reporting.
61. Notification of aeronautical telecommunication facility status.
62. Interruption to Service.
63. Test transmissions.
64. CNS facility check after accident or incident.
(c) Aeronautical Information Services and Aeronautical Charts

65. Provision of aeronautical information services.
66. Collection, processing and promulgation of aeronautical information.
68. Production of aeronautical charts.
69. Telecommunication requirements.
70. Quality management system.
71. Personnel requirements.

(d) Aeronautical Search and Rescue Services

72. Provision of Search and Rescue Service.
73. Establishment of the Rescue coordination centre.
74. Information to be provided to AIS for promulgation.
75. Search and Rescue Plan.
76. Search and Rescue reporting system.
77. Search and Rescue facilities and resources.
78. Search and Rescue Personnel requirements.
79. Distress alerting system.
80. Cooperation and coordination with other agencies
81. Record keeping.

(e) Meteorological Services for Air Navigation

82. Provision of meteorological service for air navigation.
83. Personnel qualification and training.
84. Quality assurance and use of meteorological information.
85. Verification, periodic inspection and testing of meteorological equipment.
86. Human factors principles in the provision of meteorological information.
87. Establishment of Meteorological Offices.
88. Establishment of aeronautical meteorological stations.
89. Aircraft Observation and Reporting.
90. Advanced Notification for the provision of meteorological information.
91. Recording and post-flight reporting of aircraft observations of volcanic activity.
92. Provision of meteorological information to ATS, SAR and AIS units.
93. Agreement between ATS provider and Meteorological Authorities.
94. Requirements for and use of communication facilities.

(f) Construction of visual and instrument flight procedures

95. Construction of flight procedures.
96. Flight Inspection of instrument flight procedures.
97. Procedure designer qualification, training and approval.
98. Responsibilities of a holder of certificate.
PART V
EXEMPTIONS

99. Requirements for application for exemption.
100. Review and publication.
101. Evaluation of the request.

PART VI
GENERAL PROVISIONS

102. Drug and alcohol testing and reporting.
103. Change of Name.
104. Change of address.
105. Replacement of documents.
106. Use and retention of documents and records.
107. Reports of violation.
108. Failure to comply with direction.
109. Aeronautical fees.

PART VII
OFFENCES AND PENALTIES

110. Contravention of Regulations.
111. Penalties.
112. Appeal.

PART VIII
REVOCATION

113. Revocation.
THE CIVIL AVIATION ACT
(No. ___ of 2013___)

IN EXERCISE of the powers conferred by section 82___ of the Civil Aviation Act, 2013___, the Minister for Transport makes the following Regulations—

THE CIVIL AVIATION (AIR NAVIGATION SERVICES) REGULATIONS, 20132014

PART I - PRELIMINARY

Citation

1. These Regulations may be cited as the Civil Aviation (Air Navigation Services) Regulations, 20132014.

Interpretation.

2. In these Regulations unless the context otherwise requires—
   “accident” means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked;
   (a) a person is fatally or seriously injured as a result of—
       (i) being in the aircraft, or
       (ii) direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
       (iii) direct exposure to jet blast,
   except when the injuries are from natural causes, self inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or
   (b) the aircraft sustains damage or structural failure which—
       (i) adversely affects the structural strength, performance or flight characteristics of the aircraft, and
       (ii) would normally require major repair or replacement of the affected component,
   except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tires, brakes, fairings, small dents or puncture holes in the aircraft skin; or
   (c) the aircraft is missing or is completely inaccessible;
“accuracy” means a degree of conformance between the estimated or measured value and the true value;

“Act” means Civil Aviation Act, 2013;

“Aerodrome” means a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“Aeronautical information” means information resulting from the assembly, analysis and formatting of aeronautical data;

“Aeronautical Information Circular (AIC)” means a notice containing information that does not qualify for the origination of a NOTAM or for inclusion in the AIP, but which relates to flight safety, air navigation, technical, administrative or legislative matters;

“Aeronautical Information Publication (AIP)” means a publication issued by or with the authority of a State and containing aeronautical information of a lasting character essential to air navigation;

“AIP Amendment” means permanent change to information contained in the AIP;

“AIP Supplement” means temporary changes to the information contained in the AIP which are published by means of special pages;

“Aeronautical Information Service (AIS)” means a service established within the defined area of coverage responsible for the provision of aeronautical information or data necessary for the safety, regularity and efficiency of air navigation;

“AIRAC (aeronautical information regulation and control)” means a system aimed at advance notification based on common effective dates, of circumstances that necessitate significant changes in operating practices;

“Aircraft” means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“Air Navigation services” means air traffic services, communication, navigation and surveillance, and aeronautical information services;

“Air Navigation services” facility means any facility used, available for use, or designed for use in aid of navigation of aircraft, including airports, landing fields, any structures, mechanisms, lights, beacons, marks, communicating systems, or other instruments or devices used or useful as an aid to the safe taking off, navigation, and landing of aircraft and any combination of such facilities;
“Air navigation services provider” means an independent entity established for the purpose of operating and managing air navigation services and empowered to manage and use the revenues it generated to cover its costs;

“Air traffic” means all aircraft in flight or operating on the manoeuvring area of an aerodrome;

“Air traffic control service” means a service provided for the purpose of:
(a) preventing collisions—
   (i) between aircraft, and
   (ii) on the manoeuvring area between aircraft and obstructions; and
(b) expediting and maintaining an orderly flow of air traffic;

“Air traffic service” means a generic term meaning variously, flight information service, alerting service, air traffic control service (area control service, approach control service or aerodrome control service);

“Assemble” means a process of merging data from multiple sources into a database and establishing a baseline for subsequent processing;

“ATS route” means a specified route designed for channelling the flow of traffic as necessary for the provision of air traffic services.

“Authority” means Kenya Civil Aviation Authority;

“Authorised person” means any person authorized by the Authority either generally or in relation to a particular case or class of cases and any reference to an authorized person includes reference to the holder for the time being of an office designated by the Authority;

“Certificate” means the certificate for the provision of Air Navigation Services issued by the Authority under Part II of these Regulations;

“Control area” means a controlled airspace extending upwards from a specified limit above the earth;

“Control zone” means a controlled airspace extending upwards from the surface of the earth to a specified upper limit;

“Controlled aerodrome” means an aerodrome at which air
traffic control service is provided to aerodrome traffic;

“Controlled airspace” means an airspace of defined dimensions within which air traffic control service is provided in accordance with the airspace classification;

“Controlled flight” means any flight which is subject to an air traffic control clearance;

“Cyclic redundancy checks (CRC)” means a mathematical algorithm applied to the digital expression of data that provides a level of assurance against loss or alteration of data;

“Danger area” means an airspace of defined dimensions within which activities dangerous to the flight of aircraft may exist at specified times;

“Data link communications” means a form of communication intended for the exchange of messages via a data link;

“Data quality” means a degree or level of confidence that the data provided meets the requirements of the data user in terms of accuracy, resolution and integrity;

“Data set” means identifiable collection of data;

“Designated service provider” means a person or organization designated by the Authority to provide services in accordance with these regulations;

“Flight crew member” means a licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period;

“Flight information centre” means a unit established to provide flight information service and alerting service;

“Flight information region” means airspace of defined dimensions within which flight information service and alerting service are provided;

“Flight information service” means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

“Flight level” means a surface of constant atmospheric pressure which is related to a specific pressure datum, 1013.2 hectopascals (hPa), and is separated from other such surfaces by specific pressure intervals;

“Forecast” means a statement of expected meteorological conditions for a specified time or period, and for a specified area or portion of airspace;

“Human factors principles” means principles which apply to aeronautical design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration to human
performance.

“Incident” means an occurrence, other than an accident, associated with the operation of an aircraft which affects or could affect the safety of operation;

“Integrated Aeronautical Information Package” means a package which consists of the following elements—

(a) AIP, including amendment service;
(b) Supplements to the AIP;
(c) NOTAM and PIB;
(d) AIC; and
(e) checklists and lists of valid NOTAM;

“Integrity (aeronautical data)” means a degree of assurance that an aeronautical data and its value has not been lost nor altered since the data origination or authorized amendment;

“Integrity classification (aeronautical data)” means classification based upon the potential risk resulting from the use of corrupted data. Aeronautical data is classified as:

a) routine data: there is a very low probability when using corrupted routine data that the continued safe flight and landing of an aircraft would be severely at risk with the potential for catastrophe;

b) essential data: there is a low probability when using corrupted essential data that the continued safe flight and landing of an aircraft would be severely at risk with the potential for catastrophe; and

c) critical data: there is a high probability when using corrupted critical data that the continued safe flight and landing of an aircraft would be severely at risk with the potential for catastrophe.

“International NOTAM office” means an office designated by a State for the exchange of NOTAM internationally;

“Manual of ANS Standards” means a manual developed by the Authority prescribing the standards and recommended practices applicable to the provision of air navigation services

“Metadata” means data about data;

“Meteorological office” means an office designated to provide meteorological service for international air navigation;

“NOTAM” means a notice distributed by means of telecommunication containing information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is
essential to personnel concerned with flight operations;

   “Obstacle” means all fixed (whether temporary or permanent) and mobile objects, or parts thereof, that—

   (a) are located on an area intended for the surface movement of aircraft; or

   (b) extend above a defined surface intended to protect aircraft in flight; or

   (c) stand outside those defined surfaces and that have been assessed as being a hazard to air navigation;

   “Operator” means a person, organization or enterprise engaged in or offering to engage in an aircraft operation;

   “Performance based navigation (PBN)” means area navigation based on performance requirements for aircraft operating along an ATS route, on an instrument approach procedure or in a designated airspace;

   “prescribed” means prescribed by the Authority in the Manual of ANS Standards, Circulars, Notices, Orders, Aeronautical Publications and any other documents;

   “printed communications” means communications which automatically provide a permanent printed record at each terminal of a circuit of all messages which pass over such circuit

   “prohibited area” means an airspace of defined dimensions, above the land areas or territorial waters of the State, within which the flight of aircraft is prohibited;

   “quality assurance” means part of quality management focused on providing confidence that quality requirements will be fulfilled.

   “quality control” means part of quality management focused on fulfilling quality requirements.

   “quality management” means coordinated activities to direct and control an organization with regard to quality.

   “quality system” means the organisational structure, procedures, processes and resources needed to implement quality management.

   “reduced vertical separation minima airspace” means the portion of airspace between flight level 290 and flight level 410 within which vertical separation of 1000ft is applicable;

   “required communication performance (RCP)” means a statement of the performance requirements for operational
communication in support of specific ATM functions

“required communication performance type” means a label (e.g. RCP 240) that represents the values assigned to RCP parameters for communication transaction time, continuity, availability and integrity

“rescue” means an operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety;

“restricted area” means an airspace of defined dimensions, above the land areas or territorial waters of the State, within which the flight of aircraft is restricted in accordance with certain specified conditions

“runway” means a defined rectangular area on a land aerodrome prepared for the landing and take-off of aircraft;

“runway visual range (RVR)” means the range over which the pilot of an aircraft on the centre line of a runway can see the runway surface markings or the lights delineating the runway or identifying its centre line;

“Safety management system (SMS)” means a systematic approach to managing safety, including the necessary organizational structures, accountabilities, policies and procedures.

“search” means an operation normally co-ordinated by a rescue co-ordination centre or rescue sub-centre using available personnel and facilities to locate persons in distress;

“Search and Rescue Service” means the performance of distress monitoring, communication, co-ordination and search and rescue functions, initial medical assistance or medical evacuation, through the use of public and private resources, including cooperating aircraft, vessels and other craft and installations;

“terrain” means the surface of the Earth containing naturally occurring features such as mountains, hills, ridges, valleys, bodies of water, permanent ice and snow, and excluding obstacles.

“traceability” means the ability to trace the history, application or location of that which is under consideration;

“validation” means the confirmation, through the provision of objective evidence, that the requirements for a specific intended use or application have been fulfilled; and

“verification” means the confirmation, through the provision of objective evidence, that specified requirements have been fulfilled.

Application 3. (1) These Regulations shall apply to a person providing
air navigation services within designated air spaces and at aerodromes.

(2) These Regulations shall not apply to a person providing air navigation services in the course of his duties for state aircraft.

PART II
CERTIFICATION OF AIR NAVIGATION SERVICE PROVIDER

4. A person shall not provide air navigation services unless—

   (a) he holds a certificate issued under these Regulations; and

   (b) the services are provided in accordance with—

      (i) the requirements prescribed by the Authority in the Manual of ANS Standards or any other publication of the Authority; and

      (ii) the procedures specified in the Manual of Air Navigation Service Operations (MANSOPs).

5. A person applying for a certificate shall make an application in a form prescribed by the Authority and such application shall be accompanied by—

   (a) the applicant’s Manual of Air Navigation Service Operations (MANSOPs) provided under Regulation 16(1), for approval;

   (b) a written statement setting out the services and locations at which they shall be provided;

   (c) the safety management system manual;

   (d) the quality management system manual;

   (e) the procedures to meet the requirements of the Civil Aviation (Security) Regulations, 2013 made under the Act;

   (f) a written statement on financial capability to provide the service;

   (g) the insurance policy in force in relation to the
6. (1) The Authority shall, before issuing a certificate, be satisfied that—

(a) the personnel of the applicant are adequate in number and have the necessary competency to provide the service;

(b) the MANSOPs prepared and submitted with the application contains all the relevant information;

(c) the facilities, services and equipment are established in accordance with these Regulations;

(d) the operating procedures make satisfactory provision for the safety of aircraft;

(e) an approved safety management system is in place;

(f) an approved quality management system is in place;

(h) the applicant has approved procedures to meet the requirements of the Civil Aviation (Security) Regulations made under the Act;

(I) the applicant has financial capability to provide the service; and

(i) the applicant has insurance policy in force in relation to the services provided.

(2) Subject to sub regulation (1), the Authority may set any other conditions as may be deemed necessary.

(3) The issuance of a certificate shall be subject to compliance with these Regulations and any other condition as may be specified or notified by the Authority.

(4) The Authority may refuse to grant a certificate to an applicant and where the Authority refuses, it shall notify the applicant in writing, of the reasons for the refusal, not later than fourteen days after making that decision.

6. A certificate shall include the following information—
(a) the holder’s name and physical and mailing address of its principal place of business;

(b) the type of services to be provided;

(c) the location of services to be provided;

(d) for air traffic service the service to be provided within a particular airspace or controlled aerodrome designated to the provider by the Authority;

(e) conditions of approval; and

(f) effective and expiry dates of the certificate.

7. A certificate shall be valid for a period of two years from the date of issuance, unless, surrendered, suspended or cancelled in accordance with these Regulations.

8. (1) An application for the renewal of a certificate shall be made in a form prescribed by the Authority and shall be accompanied by—

(a) the Manual of Air Navigation Service Operations (MANSOPs) if significant changes have been made following the initial certification; and

(b) the fee as prescribed by the Authority.

(2) The application shall be submitted to the Authority not less than sixty days before the expiry of the certificate.

(3) The renewal of a certificate shall be subject to compliance with these Regulations and any other conditions as may be specified or notified by the Authority.

9. (1) Subject to sub regulation (2) and any conditions prescribed by the Authority, a holder of a certificate may surrender the certificate to the Authority at any time.

(2) A holder of a certificate who wishes to surrender the certificate shall give the Authority not less than one hundred eighty days notice in writing, before the date on which the certificate is to be surrendered.

(3) Upon expiry of the period in sub_regulation (2), air navigation service provider shall not provide the services unless authorised to do so by the Authority.

10. (1) The Authority may amend a certificate upon—
(a) application made by a holder of a certificate in a form prescribed by the Authority; or

(b) the Authority’s initiative, where the Authority deems necessary.

(2) A holder of a certificate applying to the Authority for amendment of a certificate under sub-regulation (1) (a) shall be required to—

(a) attach to the application form, two copies of the proposed amendments in the MANSOPs; and

(b) pay such fee as may be prescribed by the Authority.

(3) Where the Authority initiates amendments under sub-regulation (1)(b) the holder of a certificate shall be required to make amendments in the MANSOPs accordingly.

Display of certificate.

11. (1) The holder of a certificate shall display the certificate, or a copy of it, in a conspicuous place, generally accessible to the public at the holder’s principal place of business.

(2) Where a copy of the certificate is displayed under sub-regulation (1), the holder of the certificate shall produce the original certificate to the Authority for inspection if requested to do so.

Transfer of certificate.

12. A certificate issued under these Regulations shall not be transferable.

Suspension, variation and cancellation of certificates.

13. (1) The Authority may, suspend provisionally, pending further investigation, any certificate issued under these Regulations, if it considers that—

(a) a relevant provision of the Act or these Regulations, or a condition in the certificate, has not been or is not being complied with;

(b) false or materially incorrect information was given to the Authority in the application for the certificate; or

(c) it is in the public interest to do so.

(2) The Authority may, upon the completion of an investigation which has shown sufficient ground to the Authority’s satisfaction suspend, vary or cancel any certificate issued under these Regulations.
(3) A holder or any person having the possession or custody of any certificate which has been suspended, varied or cancelled under these Regulations shall surrender the certificate to the Authority within fourteen days from the date of suspension, variation or cancellation.

14. (1) The Authority shall keep and maintain a register showing—

(a) name of the holder of the certificate;

(b) date of issue or renewal of the certificate;

(c) type of service offered by the holder of the certificate;

(d) expiry date of the certificate;

(e) date of variation, suspension or cancellation of the certificate, if any;

(f) physical and postal address of the holder of the certificate; and

(g) any other particulars as may be prescribed by the Authority.

(2) Any changes in the particulars recorded under sub-regulation (1) shall be entered in the register by the Authority.

(3) The register shall be a public document and any particular entered may be obtained upon payment of such a fee as may be prescribed by the Authority.

PART III - MANUAL OF AIR NAVIGATION SERVICES OPERATIONS

15. (1) The Manual of Air Navigation Services Operations submitted under these Regulations shall be—

(a) type written;

(b) signed by the service provider;

(c) in a format that is easy to revise and includes a list of effective pages; and

(d) organized in a manner that facilitates evaluation and approval processes.

(2) A holder of a certificate shall keep at least one approved copy of the manual at the principal place of business.
16. A Manual of Air Navigation Service Operations (MANSOPS) shall contain all information and instructions necessary to enable the personnel of air navigation service provider perform their duties and in particular shall include—

(a) services to be provided;

(b) personnel requirements and their responsibilities;

(c) training and performance assessment of staff and how that information is tracked;

(d) Safety Management System and Quality Management System;

(e) contingency plans developed for part or total system failure;

(f) compliance with the Civil Aviation (Security) Regulations as required;

(g) facilities and equipment and how they are installed and maintained;

(h) fault and defect reporting;

(i) maintenance of documents and records;

(j) search and rescue responsibilities and co-ordination, operations, plan and procedures;

(k) the proposed hours of service;

(l) systems and procedures in the provision of air navigation services; and

(m) any other information requested by the Authority.

17. (1) For the purposes of maintaining the accuracy of the information in the MANSOPS, the—

(a) holder of a certificate shall whenever necessary, amend the manual; or

(b) Authority may issue a written directive requiring the holder of a certificate to amend the manual.

(2) Notwithstanding sub-regulation (1), the holder of a certificate shall submit the proposed amendment to the Authority for approval, before the manual is amended.
PART IV
AIR NAVIGATION SERVICES

18. The Authority shall designate a service provider in accordance with these Regulations to provide—

(a) air traffic services;
(b) communication, navigation and surveillance systems;
(c) meteorological services for air navigation;
(d) aeronautical search and rescue coordination;
(e) aeronautical information services, aeronautical maps and charts; or
(f) for the construction of visual and instrument flight procedures.

19. A designated air navigation service provider shall—

(a) provide in the designated portion of airspace and aerodromes, facilities for the provision of air navigation services; and

(b) adopt and put into operation the appropriate standard systems, operational practices and rules as prescribed by the Authority.

20. A person shall not install, maintain and operate air navigation service facilities in the designated airspaces and aerodromes without approval of the Authority.

21. (1) The Authority shall carry out safety inspections and audits of air navigation facilities, services, documents and records of the air navigation service provider which may be necessary to determine compliance with these Regulations.

(2) The safety inspections and audits shall be carried out in accordance with the requirements prescribed by the Authority.

(3) The Authority may impose operating restrictions or sanctions on the operations of a certificate holder in the event of non-conformance with the certification requirements or any unresolved safety concerns.

22. An inspector of the Authority shall have unrestricted
access to the facilities, installations, records and documents of the
air navigation services and the air navigation meteorological
service provider to determine compliance with these Regulations.

23. A holder of a certificate shall produce any relevant
documents under his possession if requested by an authorised
person within seventy-two hours of such request.

24. (1) A holder of a certificate shall develop and maintain
contingency plans for implementation in the event of disruption or
potential disruption, of air navigation services in the airspace for
which the holder of the certificate is responsible.

(2) The holder of a certificate shall liaise with other air
navigation service providers in adjacent or contiguous airspaces
while developing contingency plans.

(3) The contingency plan shall include—

(a) the actions to be taken by the certificate holder's
personnel responsible for providing the service;

(b) possible alternative arrangements for providing the
service; and

(c) the arrangements for resuming normal operations for
the service.

(4) The contingency plan shall be developed in accordance
with the requirements prescribed by the Authority.

25. (1) The Authority may, when considered necessary and in
the public interest, designate an alternative service provider for a
specified period to provide service in respect of a certificate—

(a) suspended, for the duration of such suspension; or

(b) surrendered by the certificate holder or cancelled by
the Authority.

26. The units of measurement used in air and ground
operations shall be as prescribed by the Authority.

(a) Air Traffic Services

27. (1) The Authority shall designate portions of the airspace
or particular aerodromes for the provision of air traffic services.

(2) The designation of the particular portions of the airspace
or the particular aerodromes shall be—

(a) flight information region;

(b) controlled airspace which shall include—

(i) control area;

(ii) control zone;

(c) controlled aerodromes;

(d) reduced vertical separation minima airspace;

(e) a sector, if the Authority considers such a designation is necessary to facilitate the provision of air traffic services within the flight information region;

(f) air traffic services routes and significant points along the routes

(3) The Authority may designate portions of the airspace as special use airspace if it considers such airspace necessary in the interest of safety or national security or for any other reasons in the public interest.

(4) Subject to subregulation (3), special use airspace may be designated as—

(a) restricted areas;

(b) prohibited areas;

(c) danger areas;

(d) low flying zone; and

(d) flight training area.

(5) The lateral limits of the airspaces designated under this regulation shall be defined by—

(a) geographical coordinates;

(b) prominent geographical lines, circles or any part of a circle of a specified radius or great circle between two points or a parallel of latitude.

(6) The vertical limits of airspaces designated under these Regulations shall be defined by heights, altitudes or flight levels.

(7) The Authority shall publish the designation of particular

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portion of the airspace in the relevant aeronautical publications.

28. (1) The Authority shall classify designated controlled airspace as class A, B, C, D and E.

(2) The Authority shall classify a portion of airspace that is not designated as controlled airspace under sub-regulation (1) as class F.

(3) Any portion of airspace within the flight information region that is not designated as a controlled airspace or class F airspace, shall be uncontrolled airspace, and shall be classified as class G airspace.

(4) Subject to the requirements of sub-regulation (1), (2) and (3), classification of airspace within Kenya the State shall be in accordance with relevant regulation of the Civil Aviation (Rules of the Air) Regulations, 2013 as amended.

(5) Each prohibited area, restricted area, or danger area established by the State shall, upon initial establishment, be given an identification and full details shall be promulgated. The identification so assigned shall be used to identify the area in all subsequent notifications pertaining to that area.

(6) The identification shall be composed of a group of letters and figures as follows:

a) nationality letters for location indicators assigned to the State or territory which has established the airspace;
b) a letter P for prohibited area, R for restricted area and D for danger area as appropriate; and

c) a number, unduplicated within the State or territory concerned.

Note.— Nationality letters are those contained in Location Indicators (Doc 7910).

(7) To avoid confusion, identification numbers shall not be reused for a period of at least one year after cancellation of the area to which they refer.

(8) When a prohibited, restricted or danger area is established, the area should be as small as practicable and be contained within simple geometrical limits, so as to permit ease of reference by all concerned.

29. In determining the need for the provision of air traffic services the Authority shall take into consideration—

(a) the types of air traffic involved;

(b) the density of air traffic;
(c) the meteorological conditions; and
(d) any other factors which may be relevant.

30. (1) The applicant for the provision of air traffic services shall specify in the application the portions of the airspace and the aerodromes within which air traffic services shall be provided.

(2) The air traffic services provider shall ensure that the services are provided in accordance with requirements prescribed by the Authority.

(3) The air traffic services provider shall ensure that personnel providing air traffic services are competent to provide air traffic services in the designated airspaces and at the aerodromes as prescribed by the Authority.

(4) A person shall not provide a function related to the provision of air traffic services unless that person—

(a) has successfully completed training in the performance of that function; and

(b) has been licensed in accordance with the Civil Aviation (Personnel Licensing) Regulations, 2013.

31. (1) Air traffic services provided under these Regulations shall include—

(a) aerodrome control service;
(b) approach control service;
(c) approach radar control service;
(d) area control service;
(e) en-route radar control service;
(f) flight information service; and
(g) alerting service.

(2) Subject to sub_regulation (1), an air traffic service provider shall establish facilities appropriate for the provision of air traffic services as prescribed by the Authority.

32. (1) An air traffic service provider shall in carrying out its objectives, establish procedures for the coordination with other air traffic service units, air operators, aerodromes operators, military authorities, meteorological service providers, aeronautical information service, communication, navigation and surveillance providers and search and rescue agencies as prescribed by the
Authority.

(2) An air service provider shall establish procedures for coordination of activities potentially hazardous to civil aircraft as prescribed by the Authority.

33. An air traffic services provider shall establish procedures to notify without delay, the users of its services of the relevant operational information and any changes in the operational status of each facility or service provided.

34. An air traffic services provider shall establish procedures to ensure responsibility for control of an aircraft and transfer of such responsibility as prescribed by the Authority.

35. An air traffic services provider shall establish communication requirements as prescribed by the Authority.

36. An air traffic services provider shall establish procedures for the notification, investigation, and reporting of the air traffic incidents, which shall be made in a prescribed incident report form.

37. An air traffic services provider shall—

(a) make provision for assistance to aircraft in distress in the designated portion of airspace.

(b) collaborate in coordinated measures when undertaking search and rescue for aircraft in distress in accordance with the Regulations made under the Act.

38. (1) An air traffic services provider shall—

(a) make provision for the automatic recording of air traffic service data and communications; and

(b) retain the recorded air traffic service data and communications for a period of at least thirty days.

(c) In collaboration with the relevant authorities, the Authority shall permit the owners or operators of the aircraft or authorities of the State in which the Aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances.

(2) Subject to sub-regulation (1), the recorded air traffic service data and communications, if pertinent to accident and incident investigations, shall be retained for more than thirty days until it is evident that it is no longer required.
39. (1) An air traffic services provider shall determine and report air traffic services-related aeronautical data in accordance with accuracy and integrity requirements prescribed by the Authority.

(2) Air traffic services-related aeronautical data determined under sub-regulation (1) shall be maintained, monitored and protected as prescribed by the Authority.

40. (1) An air traffic services provider shall establish a safety management system in order to achieve an acceptable level of safety in the provision of air traffic service.

(2) The acceptable level of safety to be achieved as required by sub regulation (1) shall be established by the Authority.

(3) An air traffic services provider shall implement a safety management system acceptable to the Authority that, as a minimum—

(a) identifies safety hazards;

(b) ensures that remedial action necessary to maintain an acceptable level of safety is implemented;

(c) provides for continuous monitoring and regular assessment of the safety level achieved; and

(d) aims to make continuous improvement to the overall level of safety.

(4) The air traffic services provider shall ensure that any significant safety-related change to the ATS system, including the implementation of a new procedure, shall only be effected after a safety assessment has demonstrated that an acceptable level of safety will be achieved.

(5) When appropriate, air traffic service provider shall ensure that adequate provision is made for post-implementation monitoring to verify that the defined level of safety continues to be met.

41. (1) An air traffic services provider shall implement performance based navigation within designated airspaces and aerodromes in accordance with requirements prescribed by the Authority.
(2) The Authority shall prescribe navigation specification requirements for PBN operations on the basis of regional Air Navigation Agreements.

(3) In prescribing navigation specification requirements for PBN operations the Authority shall consider any limitations arising from navigation infrastructure constraints or specific navigation functionality requirements.

42. (1) An air traffic services provider shall implement required navigation performance type appropriate to the air traffic services provided in the airspace concerned in accordance with requirements prescribed by the Authority.

(2) The Authority shall prescribe the required communication performance types on the basis of regional air navigation agreements.

43. An air traffic services provider shall provide assistance to all aircraft known or believed to be in a state of emergency in accordance with requirements prescribed by the Authority.

(b) Communication, Navigation and Surveillance

44. (1) A person shall not provide communication, navigation and surveillance systems or operate communication, navigation and surveillance facility or facilities in the designated airspace and aerodromes unless the system or facility has been approved by the Authority.

(2) The Authority shall approve installation, use, decommissioning, upgrading or relocation of all the communication, navigation and surveillance facility or facilities in the designated airspace and aerodromes.

45. A holder of a certificate shall be responsible for the provision of communication, navigation and surveillance services to ensure that the telecommunication information and data necessary for the safe, regular and efficient operation of air navigation is available.

46. (1) A holder of a certificate shall employ competent personnel to perform the installation, operation and maintenance of communication, navigation and surveillance system in the designated airspace and aerodromes as prescribed by the Authority.

(2) A person shall not perform a function related to the installation, operation or maintenance of any communication,
navigation and a surveillance system unless—

(a) that person has successfully completed training in the performance of that function;

(b) the holder of a certificate is satisfied that the technical person is competent in performing that function; and

(c) that person has been certified as prescribed by the Authority.

47. The Authority shall develop proficiency certification program of personnel who are engaged in the installation, operation and maintenance of Communication, Navigation and Surveillance systems used in the designated airspace and aerodrome.

48. (1) The holder of a certificate shall establish procedure to ensure that the communication, navigation and surveillance systems—

(a) are operated, maintained, available and reliable in accordance with the requirements prescribed by the Authority;

(b) are designed to meet the applicable operational specification for that facility;

(c) are installed and commissioned as prescribed by the Authority; and

(d) conform to the applicable system characteristics and specification standards prescribed by the Authority.

49. A holder of a certificate shall ensure that the radio navigation aids prescribed by the Authority are available for use by aircraft engaged in air navigation and are subjected to periodic ground and flight inspection.

50. A holder of a certificate shall establish a procedure for the periodic inspection and testing of the communication, navigation and surveillance systems to verify that each facility meets the applicable operational requirements and performance specifications for that facility.

51. A holder of a certificate shall establish a procedure to control, calibrate, and maintain all the inspection, measuring and
test equipment to ensure that each item of equipment has the precision and accuracy that is necessary for the measurements and tests to be performed.

52. A holder of a certificate shall ensure that information on the operational status of each communication, navigation and surveillance facility that is essential for the enroute, approach, landing, and take-off phases of light is provided to meet the operational needs of the service being provided.

53. A holder of a certificate shall ensure that a facility is installed with main and standby power supply to ensure continuity of operation appropriate to the service being provided.

54. (1) A holder of a certificate shall establish a security programme for the communication, navigation and surveillance facility.

(2) The security programme required under sub regulation (1) shall specify the physical security requirements, practices, and procedures to be followed for the purposes of minimising the risk of destruction of, damage to, or interference with the operation of communication, navigation and surveillance facility.

55. A holder of a certificate shall ensure that the communication procedures for operating the facilities are in accordance with procedures prescribed by the Authority.

56. A holder of a certificate shall—

(a) hold copies of relevant equipment manuals, technical standards, practices, instructions, maintenance procedures, site logbooks, and any other documentation that are necessary for the provision and operation of the facility.

(b) establish a procedure for the control of the documentation required under sub regulation (1) as prescribed by the Authority.

57. A holder of a certificate shall establish procedures to identify, collect, index, store, maintain, and dispose records covering—

(a) the performance and maintenance history of each facility;

(b) the establishment of the periodic test programmes for each facility;
each item of test equipment required for the measurement of critical performance parameters;

d) each reported or detected facility malfunction;

e) each internal quality assurance review; and

f) each person who is authorised to place facilities into operational service.

58. (1) A holder of a certificate shall establish procedures for the reporting, collection and notification of facility malfunction incidents and safety incidents.

(2) Reports of such incidents shall be compiled and reviewed periodically by a holder of a certificate to—

(a) determine the cause of the incidents and determine any adverse trends;

(b) implement corrective and preventive actions where necessary to prevent recurrence of the incidents; and

(c) implement any measures to improve the safety performance of the Communication, navigation and surveillance systems.

59. A holder of a certificate shall—

(a) ensure that there is no wilful transmission of unnecessary or anonymous radio signals, messages or data by any of its radio stations;

(b) establish procedures with the communication regulatory authority to address occurrence of radio frequency interference; and

(c) ensure that any frequency interference occurrence is reported, investigated and follow-up actions taken to prevent recurrence.

60. A holder of a certificate shall, as soon as possible—

(a) forward to the Aeronautical Information Services—

(i) information on the operational details of any new facility for publication in the Aeronautical Information Publication; and
(ii) information concerning any change in the operational status of any existing facility, for the issue of a Notice to Airmen; and

(b) ensure that the information forwarded under sub-paragraph (a) has been accurately published.

61. A holder of a certificate shall—

(a) establish procedure to be used in the event of interruption to or when upgrading communication, navigation and surveillance systems;

(b) specify an acceptable recovery time for each service.

62. A holder of a certificate may make a test transmission if—

(a) the transmission is necessary to test a service, facility or equipment; and

(b) within a reasonable time before commencing the transmission, the users have been informed about the transmission.

63. A holder of a certificate shall establish a procedure to check and accurately record the operating condition of any communication, navigation and surveillance facility that may have been used by an aircraft that is involved in an accident or incident.

(c) Aeronautical Information Services and Aeronautical Charts

64. (1) The Authority may designate an agency to provide aeronautical information services, maps and charts.

(2) Aeronautical information published by the designated agency shall be in accordance with requirements prescribed by the Authority.

65. (1) An Aeronautical Information Service provider shall—

(a) receive, originate, collate or assemble, edit, format, publish, store and distribute aeronautical information and data concerning the designated airspace.
(b) publish the aeronautical information as an integrated Aeronautical Information Package;

(c) ensure that the aeronautical information provided is adequate, of required quality and timely;

(d) make available to aeronautical information services of other States any information necessary for the safety, regularity or efficiency of air navigation;

(e) designate the office to which all elements of Integrated Aeronautical Information Package originated by other States is addressed;

(f) establish procedures that ensure that required information and data is received in a timely manner from organizations involved in aircraft operations or those that have information and data that supports the air navigation system.

(2) The holder of a certificate shall on request, by other agencies provide, all information relating to the designated airspace.

(3) The conditions, requirements, rules, procedures and standards for the publication of the aeronautical information in the—

(a) Aeronautical Information Circular;

(b) Aeronautical Information Publication and its amendments;

(c) Aeronautical Information Publication Supplements;

(d) Notice to Airmen (NOTAM),
as the case may be, shall be as prescribed by the Authority.

(4) The aeronautical information publication amendments and Supplements issued under the Aeronautical Information Regulation and Control (AIRAC) system shall be as prescribed by the Authority.

(5) Each information or data originator shall provide timely aeronautical information or data in their custody to the AIS provider in accordance with letters of agreement between the AIS provider and the originators of the information and data.
(6) The Aeronautical Information Service Provider shall provide electronic terrain and obstacle data as prescribed by the Authority.

66. (1) World Geodetic System 1984 (WGS-84) geodetic reference datum shall be used in published aeronautical geographical coordinates (indicating latitude and longitude) as a horizontal reference system.

(2) Mean sea level (MSL) datum, shall be used as the vertical reference system for air navigation.

(3) The Gregorian calendar and Coordinated Universal Time (UTC) shall be used as the temporal reference system.

67. (1) An Aeronautical Information Service provider shall ensure:

(a) the availability of the required charts containing information relevant to the function of the chart; and

(b) the design of the charts observe human factors principles as prescribed by the Authority.

(2) Each type of chart shall provide accurate and adequate information appropriate to the phase of flight.

(3) The aeronautical charts shall be produced and maintained in a form prescribed by the Authority.

68. (1) Each international NOTAM office shall be connected, through the aeronautical fixed service (AFS), within the airspace for which it provides service, to—

(a) area control centres and flight information centres;

(b) aerodrome or heliport at which an information service is provided with pre-flight briefing and post-flight information.

(2) The connections shall provide for printed communications.

(3) Aeronautical Fixed Service shall comprise the systems and applications that are used for ground to ground communications in the international telecommunication service as prescribed by the Authority.

(4) For exchange of messages over the teleprinter circuits, the signals of the appropriate International Telegraphic Alphabet permitted shall be as prescribed by the Authority.
(5) For the purpose of sub regulation (3) “ground to ground” means point to point or point to multiple points.

(6) the Aeronautical Information Service provider may make use of public internet for the exchange of non-time critical types of aeronautical information.

69. (1) An Aeronautical Information Service Provider shall—

(a) implement and maintain a quality management system acceptable to the Authority and encompassing all functions of an aeronautical information service as outlined in Regulation 66

(b) make the execution of such quality management systems demonstrable for each function stage, when required.

(c) implement the quality management system required in sub-regulation (1) (a) in accordance with the requirements prescribed by the Authority.

(d) ensure that the quality management system established in accordance with sub-regulation (1) (a) follows the International Organization for Standardization (ISO) 9000 series of quality assurance standards, and be certified by an approved organization.

(2) For the purpose of paragraph (1) (b) “function stage” means receiving, originating, collating, assembling, editing, formatting, publishing, storing and distribution of aeronautical information and data.

(3) The Quality management system implemented shall take into consideration that:

(a) procedures exist for—

(i) traceability to its origin of data anomalies or errors, detected and corrected;

(ii) assurance and confidence that the distributed aeronautical information and data satisfy the requirements for data quality, traceability and timeliness;

(iii) protection of electronic aeronautical data stored or in transit by the cyclic redundancy check (CRC) to assure integrity of data;
(iv) validation and verification to ensure quality requirements and traceability of aeronautical data;

(v) the audit and remedial action for the compliance of the quality management system.

(b) publication resolution of aeronautical data and confidence level and integrity shall be as prescribed by the Authority; and

(c) material issued as part of the Integrated Aeronautical Information Package is checked and coordinated with the responsible services before it is published;

(d) the necessary policies, processes and procedures, including those for the use of metadata, to ensure and verify that aeronautical data is traceable throughout the aeronautical information data chain are applied.

70. An Aeronautical Information Service Provider shall ensure that—

(a) personnel are trained to acquire the skills, knowledge and competencies required to perform the functions in Regulation 66;

(b) initial and periodic assessments are established that require personnel to demonstrate the required skills and competencies;

(c) procedures are established to maintain currency of the competence of the personnel; and

(d) appropriate records are maintained so that the qualifications of personnel can be confirmed.

71. (1) The Authority shall designate an agency to coordinate and direct the prompt provision of search and rescue services within the designated airspace on a twenty-hour basis to all aircraft in distress regardless of their nationality or status.
(2) The designated search and rescue agency shall determine the type and degree of search and rescue services to be provided within the search and rescue region in accordance with requirements prescribed by the Authority.

(3) The Authority shall establish Search and Rescue Region(s) within which search and rescue services shall be provided.

(4) The Authority shall ensure that the Search and Rescue Region(s) established under sub regulation (3) do not overlap and neighbouring regions are contiguous.

(5) The designated search and rescue agency shall provide search and rescue coordination services in accordance with requirements prescribed by the Authority.

72. The designated search and rescue agency shall establish a rescue coordination centre equipped with appropriate facility and personnel within the search and rescue region to—

(a) facilitate efficient organisation of search and rescue services; and

(b) coordinate the conduct of search and rescue operations within the search and rescue region.

73. The designated SAR agency shall provide information on the facilities and services to be provided within the search and rescue region to AIS for promulgation.

74. The designated search and rescue agency shall—

(a) develop a Search and rescue Plan in accordance with requirements prescribed by the Authority;

(b) establish and maintain a document library that is readily accessible by its operational and management staff as prescribed by the Authority.

75. The designated Search and Rescue agency shall establish a system for reporting occurrences and the conduct of Search and Rescue operations to the Authority.

76. The designated Search and Rescue agency shall ensure the availability of sufficient resources and facilities to coordinate the search and rescue operations at any one time.

77. The designated Search and Rescue agency shall ensure that the Rescue Coordination Centre is staffed on a twenty-hour basis by a complement of personnel who are trained, qualified,
proficient and certified to levels of competence relevant to the functions and responsibilities appropriate to a Search and Rescue service within the SAR region.

78. The designated Search and Rescue agency shall ensure that—

(a) the COSPASS-SARSAT satellite distress alerting system is established in accordance with requirements prescribed by the Authority;

(b) provision is made for a 406 MHz ELT register that is updated whenever necessary;

(c) registered ELT information is immediately available to Rescue Coordination Centre staff and other authorized Search and Rescue parties;

(d) designate a Search and Rescue Point of Contact for receipt of crash alert and location messages and associated data from authorities and users of COSPASS-SARSAT.

79. The designated Search and Rescue agency shall—

(a) establish letters of agreement with Search and Rescue service providers within the State and with all Search and Rescue agencies of contiguous states as prescribed by the Authority;

(b) cooperate as far as practicable with all entities involved in aircraft accident and incident investigation as necessary;

(c) ensure closest possible cooperation and coordination with the relevant aeronautical, maritime and military emergency response authorities;

(d) designate and make formal arrangements for cooperative and appropriate use of public and private Search and Rescue Units that are suitably located, equipped and crewed for search and rescue operations throughout the search and rescue region;

(e) designate and make formal arrangements for cooperative and appropriate use of craft, vehicles and personnel that do not qualify as Search and Rescue.
Rescue Units but which may be able to effectively participate in Search and Rescue operations;

(f) maintain an accurate and complete database of Search and Rescue Units and other Search and Rescue facilities and resources within the search and rescue region and make arrangements for the timely advice to the Rescue Coordination Centre of any change in their readiness or capability;

(g) provide relevant information on the availability of Search and Rescue Units within the search and rescue region to the Authority for publication in the AIP;

(h) ensure the availability of appropriately packed, droppable life support equipment that is securely positioned and maintained at strategic locations throughout the search and rescue region and readily available for rapid loading onto Search and Rescue Units.

80. The designated Search and Rescue agency shall retain all data relating to every Search and Rescue action undertaken by the Rescue Coordination Centre in an orderly and easily accessed manner for a period of at least twelve calendar months.

(e) Meteorological Services for Air Navigation

81. (1) The Authority shall designate a service provider for the provision of meteorological services for air navigation.

(2) The service provider designated under sub-regulation (1) shall provide the following services in support of aviation—

(a) make routine meteorological observations at regular intervals;

(b) make special weather observations whenever specified changes occur in respect of surface wind, visibility, runway visual range, present weather, cloud and air temperature;

(c) prepare and obtain significant weather forecasts information and maintain contact with Regional specialized meteorological centres for the notification and exchange of information on volcanic ash and tropical cyclones activity as prescribed by the Authority;
(d) display and provide briefing, consultation and flight documentation to flight crew members and other flight operations personnel, the latest information on existing and expected meteorological conditions along the route to be flown, at the aerodrome of intended landing, alternate aerodromes and other aerodromes as prescribed by the Authority;

(e) perform weather watch and monitoring, including the ability to detect and forecast hazards relevant to the aviation community, as prescribed by the Authority;

(f) derive forecast and warning products to the requirements prescribed by the Authority for the pilot, air traffic service and air operators;

(g) maintain a record of aeronautical climatological information for supply to pilot, air traffic service and air operators and any other persons on request;

(h) exchange aeronautical meteorological information with other aeronautical aerodrome meteorological offices;

(i) supply information received concerning the accidental release of radioactive materials into the atmosphere, in the area for which it maintains watch or adjacent areas, to its associated ACC/FIC, as agreed between the meteorological and ATS authorities concerned, and to aeronautical information service units, as agreed between the meteorological and appropriate civil aviation authorities concerned. The information shall comprise location, date and time of the release, and forecast trajectories of the radioactive materials within its area of responsibility to the air traffic service providers for dissemination; and

(j) prepare gridded global forecasts as prescribed by the Authority.

(3) The conditions, rules, requirements, procedures or standards of the designation shall be prescribed by the Authority.

(4) A person shall not provide meteorological information service at aerodromes or portion of airspace, except under the conditions prescribed by the Authority.

82. The designated service provider shall—
and training.

(a) comply with the requirements of the World Meteorological Organization in respect of qualifications and training of meteorological personnel providing service for international air navigation and other requirement as may be prescribed by the Authority;

(b) establish a procedure to assess the competency of personnel authorised to install meteorological facility for operational use and to perform meteorological services;

(c) maintain the competence of the authorised personnel.

Quality system.

83. (1) The Authority shall ensure that the designated service provider establishes a properly organised quality assurance management system comprising procedures, processes and resources necessary to provide for the quality management of the meteorological information to be supplied to the users.

(2) The quality system established under sub-regulation (1) shall be in conformity with the International Organization for Standardization (ISO) 9000 series of quality assurance standards and shall be certified by an approved organization.

(3) The quality system shall ensure:

(a) the meteorological information supplied complies with the stated requirements in terms of the geographical and spatial coverage, format and content, time and frequency of issuance and period of validity;

(b) the accuracy of measurements, observations and forecasts.

(4) The quality system shall—

(a) include verification and validation procedures and resources for monitoring adherence to the prescribed transmission schedules for individual messages and bulletins required to be exchanged, and the times of their filing for transmission; and

(b) be capable of detecting excessive transit times of messages and bulletins received.

(5) The Authority shall conduct audit of the quality system established and implemented by the designated service provider to determine compliance.
(6) For the purposes of this regulation, the term users means operators, flight crew members, air traffic services units, search and rescue services units, aeronautical information services, aerodrome operators and others concerned with the conduct or development of air navigation.

84. A service provider designated to provide meteorological services for air navigation shall establish procedures for—

(a) the routine verification of meteorological information provided for air navigation; and

(b) the periodic inspection, testing and calibration of each facility used in the provision of meteorological service.

85. The designated meteorological services provider shall ensure that the meteorological information supplied to users referred to in regulation 82 is consistent with Human Factors principles and in a form which require a minimum of interpretation by the users.

86. (1) The designated meteorological services provider shall establish aerodrome meteorological offices and other meteorological offices which shall be adequate for the provision of meteorological service required to satisfy the needs of air navigation.

(2) Aircraft operators shall notify the aerodrome meteorological office of—

(a) flight schedules;

(b) non-schedule flights to be operated;

(c) delayed, advanced or cancelled flights.

(3) The information to be notified as required in subregulation (2) shall be as prescribed by the Authority.

(4) The meteorological offices established under subregulation (1) shall carry out their functions as prescribed by the Authority to meet the needs of flight operations.

87. The designated service provider shall establish aeronautical meteorological stations, including on offshore structures or at other points of significance as may be deemed necessary to make observations and meteorological reports for use in air navigation.

88. The pilot in command of an aircraft shall make routine, special and other non-routine aircraft observations and reporting
during flight in accordance with requirements prescribed by the Authority.

89. The operator of an aircraft shall provide advance notice to the designated provider of meteorological information on services required when –

(a) new routes or new types of operations are planned;

(b) changes of a lasting character are to be made in scheduled operations; and

(c) other changes, affecting the provision of meteorological services are planned.

90. States with active or potentially active volcanoes shall arrange that selected State volcano observatories, as designated by regional air navigation agreements, monitor these volcanoes and when observing, the designated meteorological services provider shall ensure that special aircraft observations of pre-eruptive volcanic activity, volcanic eruption or volcanic ash cloud are recorded and the observations provided to flights operating on routes which, in the opinion of the designated service provider may be affected by volcanic ash clouds.

91. (1) The designated meteorological services provider shall designate a meteorological office to be associated with each air traffic services unit.

(2) The meteorological watch office shall:

(a) after coordination with the air traffic services unit, supply up-to-date meteorological information to the unit as necessary; and

(b) supply as rapidly as possible, any meteorological information requested by an air traffic services unit in connection with an aircraft emergency.

(3) The meteorological watch office shall supply search and rescue services units with the meteorological information they require in a form established by mutual agreement and shall maintain liaison with the search and rescue services unit throughout a search and rescue operation.

(4) The designated service provider shall, in coordination with the Authority, arrange for the supply of up-to-date meteorological information to the aeronautical information services units, as necessary, for promulgation.
92. The designated meteorological services provider and the appropriate air traffic services provider shall establish agreements to cover:

(a) the provision in air traffic services units of displays related to integrated automatic systems;

(b) the calibration and maintenance of the displays and instruments;

(c) the use to be made of the displays and instruments by air traffic services personnel;

(d) as and where necessary, supplementary visual observations;

(e) meteorological information obtained from aircraft taking off or landing; and

(f) if available, meteorological information obtained from ground weather radar.

93. (1) The designated meteorological services provider shall ensure that suitable telecommunications facilities are made available to permit—

(a) aerodrome meteorological offices and aeronautical meteorological stations to supply the required meteorological information to air traffic services units on the aerodromes for which those offices and stations are responsible, and in particular to aerodrome control towers, approach control units and the aeronautical telecommunications stations serving those aerodromes;

(b) meteorological watch offices to supply the required meteorological information to air traffic services and search and rescue services units in respect of the flight information regions, control areas and search and rescue regions for which those offices are responsible, and in particular to flight information centres, area control centres and rescue coordination centres and the associated aeronautical telecommunications stations;

(c) world area forecast centres to supply the required world area forecast system products to meteorological offices and other users.
(d) communication by direct speech and the speed with which the communication can be established between meteorological offices and, as necessary, aeronautical meteorological stations and aerodrome control towers or approach control units to be such that the required points may normally be contacted within approximately fifteen seconds;

(e) meteorological offices to exchange operational meteorological information with other meteorological offices.

(2) The content and format of meteorological information transmitted to aircraft and by aircraft shall be as prescribed by the Authority.

(f) Construction of visual and instrument flight procedures

94. A holder of a certificate issued under regulation 4 shall develop visual and instrument flight procedures to be used by aircraft operating in the designated airspace and aerodrome in accordance with requirements prescribed by the Authority.

95. A holder of a certificate shall ensure that flight inspection of instrument flight procedures is carried out at regular intervals by a qualified flight inspector as prescribed by the Authority.

96. (1) A person shall not design or publish visual and instrument flight procedures for use in the designated airspace and aerodromes unless he has completed approved training in the construction of visual and instrument flight procedures and has been approved by the Authority to do so.

(2) A person who has been trained and approved in accordance with sub regulation (1) shall comply with and maintain the competency levels as prescribed by the Authority.

97. A person authorised under regulation 95 shall design, flight validate, inspect, and maintain, visual and instrument flight procedures of a specific type as prescribed by the Authority and subject to any conditions specified in the certificate.

PART V - EXEMPTIONS

98. (1) A person may apply to the Authority for an
exemption from any provision of these Regulations.

(2) Unless in case of emergency, a person requiring exemptions from any of these regulations shall make an application to the Authority at least sixty days prior to the proposed effective date, giving the following information—

(a) name and contact address including electronic mail and fax if any;
(b) telephone number;
(c) a citation of the specific requirement from which the applicant seeks exemption;
(d) justification for the exemption;
(e) a description of the type of operations to be conducted under the proposed exemption;
(f) the proposed duration of the exemption;
(g) an explanation of how the exemption would be in the public interest;
(h) a detailed description of the alternative means by which the applicant will ensure a level of safety equivalent to that established by the regulation in question;
(i) A safety risk assessment carried out in respect of the exemption applied for;
(j) if the applicant handles international operations and seeks to operate under the proposed exemption, an indication whether the exemption would contravene any provision of the Standards and Recommended Practices of the International Civil Aviation Organization (ICAO); and
(k) any other information that the Authority may require.

(3) Where the applicant seeks emergency processing of an application for exemption, the application shall contain supporting facts and reasons for not filing the application within the time specified in sub regulation (2) and satisfactory reason for deeming the application an emergency.

(4) The Authority may in writing, refuse an application made under sub regulation (3), where in the opinion of the Authority, the reasons given for emergency processing are not satisfactory.
(6) The application for exemption shall be accompanied by fee prescribed by the Authority.

99. (1) The Authority shall review the application for exemption made under regulation 99 for accuracy and compliance and if the application is satisfactory, the Authority shall publish a detailed summary of the application for comments, within a prescribed time, in either—

(a) the State Gazette; or

(b) aeronautical information circular; or

(c) a daily newspaper with national circulation.

(2) Where application requirements have not been fully complied with, the Authority shall request the applicant in writing, to comply prior to publication or making a decision under sub regulation (3).

(3) If the request is for emergency relief, the Authority shall publish the decision as soon as possible after processing the application.

100. (1) Where the application requirements have been satisfied, the Authority shall conduct an evaluation of the request to include—

(a) determination of whether an exemption would be in the public interest;

(b) a determination, after a technical evaluation of whether the applicant’s proposal would provide a level of safety equivalent to that established by the regulation, although where the Authority decides that a technical evaluation of the request would impose a significant burden on the Authority’s technical resources, the Authority may deny the exemption on that basis;

(c) a determination of whether a grant of the exemption would contravene these Regulations; and

(d) a recommendation based on the preceding elements, of whether the request should be granted or denied, and of any conditions or limitations that should be part of the exemption.

(2) The Authority shall notify the applicant in writing, the decision to grant or deny the request and publish a detailed summary of its evaluation and decision.
(3) The summary referred to in sub-regulation (2) shall specify the duration of the exemption and any conditions or limitations of the exemption.

(4) If the exemption affects a significant population of the aviation community of the Kenya State the Authority shall publish the summary in aeronautical information circular.

PART VI
GENERAL PROVISIONS

101. (1) Any person who performs any function prescribed by these Regulations directly or by contract under the provisions of these Regulations may be tested for drug or alcohol usage.

(2) A person who—

(a) refuses to submit to a test to indicate the percentage by weight of alcohol in the blood; or

(b) refuses to submit to a test to indicate the presence of narcotic drugs, marijuana, or depressant or stimulant drugs or substances in the body, when requested by a law enforcement officer or the Authority, or refuses to furnish or to authorise the release of the test results requested by the Authority shall—

(i) be denied any licence, certificate, rating, qualification, or authorisation issued under these Regulations for a period of up to one year from the date of that refusal; or

(ii) have their licence, certificate, rating, qualification, or authorisation issued under these Regulations suspended or revoked.
(3) Any person who is convicted for the violation of any local or national statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances, shall—

(a) be denied any license, certificate, rating, qualification, or authorisation issued under these Regulations for a period of up to one year after the date of conviction; or

(b) have their licence, certificate, rating, qualification, or authorisation issued under these Regulations suspended or revoked.

102. (1) A holder of a certificate issued under these Regulations may apply to the Authority for—

(a) replacement of the certificate if lost or destroyed;

(b) change of name on the certificate; or

(c) an endorsement on the certificate

(2) when applying under paragraph (1), the holder of a certificate shall submit to the Authority—

(a) the original certificate or a copy thereof in case of loss; and

(b) a court order, or other legal document verifying the name change.

(3) The Authority shall return to the holder of a certificate, with the appropriate changes applied for, if any, the originals specified under paragraph (2) and, where necessary, retain copies thereof.

103. (1) A holder of a certificate issued under these Regulations shall notify the Authority of the change in the physical and mailing address within fourteen days of such change.

(2) A person who does not notify the Authority of the change in the physical and mailing address within the time frame specified in sub-regulation (1) shall not exercise the privileges of the certificate.

104. A person may apply to the Authority in the prescribed form for replacement of documents issued under these Regulations if such documents are lost or destroyed.
105. (1) A person shall not—

(a) use any certificate or exemption issued or required by or under these Regulations which has been forged, altered, cancelled, or suspended, or to which he is not entitled; or

(b) forge or alter any certificate or exemption issued or required by or under these Regulations; or

(c) lend any certificate or exemption issued or required by or under these Regulations to any other person; or

(d) make any false representation for the purpose of procuring for himself or any other person the grant, issue, renewal or variation of any such certificate or exemption.

(e) mutilate, alter, render illegible or destroy any records, or any entry made therein, required by or under these Regulations to be maintained, or knowingly make, or procure or assist in the making of, any false entry in any such record, or wilfully omit to make a material entry in such record.

(2) All records required to be maintained by or under these Regulations shall be recorded in a permanent and indelible material.

(3) A person shall not issue any certificate or exemption under these Regulations unless he is authorised to do so by the Authority.

(4) A person shall not issue any certificate referred to in sub-regulation (3) unless he has satisfied himself that all statements in the certificate are correct, and that the applicant is qualified to hold that certificate.

106. (1) Any person who knows of a violation of the Act, or any Regulations, rules, or orders issued thereunder, shall report it to the Authority.

(2) The Authority may determine the nature and type of investigation or enforcement action that need to be taken.
107. Any person who fails to comply with any direction given to him by the Authority or by any authorised person under any provision of these Regulations shall be deemed for the purposes of these Regulations to have contravened that provision.

108. (1) The Authority shall notify in writing the fees to be charged in connection with the issue, renewal or variation of any certificate, test, inspection or investigation required by, or for the purpose of these Regulations any orders, notices or proclamations made there under.

(2) Upon an application being made in connection with which any fee is chargeable in accordance with the provisions of sub-regulation (1), the applicant shall be required, before the application is accepted, to pay the fee so chargeable.

(3) If, after that payment has been made, the application is withdrawn by the applicant or otherwise ceases to have effect or is refused, the Authority shall not refund the payment made.

PART VII
OFFENCES AND PENALTIES

109. A person who contravenes any provision of these Regulations may have his certificate or exemption cancelled or suspended.

110. (1) A person who contravenes any provision of these Regulations, orders, notices or proclamations made there under shall, upon conviction, be liable to a fine or imprisonment or both, and in the case of a continuing contravention, each day of the contravention shall constitute a separate offence.

(2) Any person who contravenes any provision of these Regulations shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not more than six months or to both.

(3) If it is proved that an act or omission of any person, which would otherwise have been a contravention by that person of a provision of these Regulations, orders, notices or proclamations made there under was due to any cause not avoidable by the exercise of reasonable care by that person, the act or omission shall be deemed not to be a contravention by that person of that provision.

111. Where any person is aggrieved by any order made under these Regulations the person may, within twenty one days of such order being made, appeal against the order to a court of law with competent jurisdiction.
Revocation of L.N 136/2008

112. The Civil Aviation (Air Navigation Services) Regulations, 2008 are repealed.

Made on the .................................................... 2014.

AMOS KIMUNYA,
Minister for Transport.