



REGULATORY IMPACT ASSESSMENT
for the Civil Aviation (Instruments and Equipment) Regulations, 2024

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

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1.0 Chapter One – Introduction

1.1 Regulatory Authority and the Legal Mandate

Kenya Civil Aviation Authority (KCAA) is established under the Kenya Civil Aviation Act, Cap. 394 (the Act). The object and purpose for which the Authority was established is to economically and efficiently plan, develop and manage civil aviation, regulate and operate a safe civil aviation system in Kenya in accordance with the provisions of the Act. It also has the primary functions to regulate and oversight aviation safety and security; economic regulation of air services and development of civil aviation; provision of air navigation services; and training of aviation personnel as guided under the provisions of the Convention on International Civil Aviation, related ICAO Standards and Recommended Practices (SARPs), the Act, and the Civil Aviation Regulations.

Section 4 of the Act provides that the provisions of the Act and regulations made thereunder unless expressly excluded apply to: aerodromes used for civil aviation in Kenya; air services established or operating in Kenya; any aircraft registered by the Authority; any foreign aircraft within the Kenya territory; aviation personnel and training schools certified by the Authority; enterprises operating in Kenya in the design, manufacture, maintenance, repair and modification of aircraft and aircraft parts or components; and air navigation facilities and services in Kenya.

Section 82 provides for the power of the Cabinet Secretary responsible for aviation matters to make regulations to give effect to the Act and for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention on aviation ratified by Kenya. The draft Civil Aviation (Instruments and Equipment) Regulations, 2024 have been developed under the Act.

Section 82(1) of the Act empowers the Cabinet Secretary responsible for transport to make regulations to give effect to and for the better carrying out of the objects and purposes of the Act, and to provide generally for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention.

Further, section 82(2) of the Act is more specific and provides that the Cabinet Secretary may make regulations for, among others:

- (a) regulating, by establishing licensing authorities and a system of licensing and otherwise, the use of aircraft (i) for commercial transport; and (ii) for aerial work;
- (b) prohibiting the flying of any aircraft — (i) unless there is in force in respect of such aircraft a certificate of airworthiness or permit to fly issued or recognized in accordance with regulations made under this Act; and (ii) except upon compliance with such conditions as to maintenance and repair as may be prescribed or specified in the certificate or permit;
- (c) requiring the flight crew, and persons, performing prescribed functions in relation to the operation or maintenance of aircraft, air navigation services, design and construction of aircraft to be the holders of licences of specified kinds;
- (d) providing for the manner and conditions of issue, validation, renewal, extension or variation of any licence required in regulations and for the form, custody, production, cancellation, suspension, endorsement and surrender of such;
- (e) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any license, or the undergoing of any examination or test

- required by regulations made under this Act or any other matters in respect of which it appears to the Cabinet Secretary to be expedient to charge fees;
- (f) exempting any aircraft or persons or classes of aircraft or persons from the provisions of any regulations made under this Act;
 - (g) providing for the investigation in such manner as may be prescribed, including by means of a tribunal established for the purpose, of any accident arising out of or in the course of air navigation and occurring either in or over Kenya or occurring elsewhere to Kenya aircraft;
 - (h) requiring any person who owns an aircraft or who carries on the business of operating aircraft for hire or reward to furnish to such authorities as may be prescribed such information relating to the aircraft and the use thereof, the crew, the mail, the passengers and the cargo carried, as may be prescribed;
 - (i) providing for the licensing, inspection and regulation of aerodromes, access to places where aircraft, have landed or may land, access to aircraft factories or maintenance establishments or places where aircraft parts and engines are maintained, for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof.
 - (j) the design, construction, repair, overhaul, maintenance, operation and use of aircraft, maintenance and repair of facilities and related equipment; and
 - (k) the control and operation of the aircraft within or directly above the aerodrome for the purpose of limiting or mitigating the effect of noise.

1.2 Statutory Instruments Act, Cap. 2A

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

The object of the Act is to provide a comprehensive regime for the making, scrutiny, publication and operation of statutory instruments by:

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

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

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

- (a) a statement of the objectives of the proposed legislation and the reasons for them;
- (b) a statement explaining the effect of the proposed legislation including in the case of a proposed legislation which is to amend an existing statutory instrument the effect on the operation of the existing statutory instrument;
- (c) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
- (d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives;
- (e) the reasons why the other means are not appropriate;
- (f) any other matters specified by the guidelines; and
- (g) a draft copy of the proposed statutory rule. Section 5 of SIA requires an RMA to conduct public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

1.3 What is a Regulatory Impact Assessment?

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

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

Typically, the structure of a RIA should contain the following elements:

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

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

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

1.4 International Legislation

Kenya, by virtue of Article 2(5) and (6) of the Constitution has ratified and become part of the international participants in the aviation space. The International Civil Aviation Authority (ICAO) was established as a specialized United Nations (UN) agency under the

Convention of International Civil Aviation (Chicago Convention) which helps 193 countries to cooperate and share their skies to their mutual benefit. To achieve this, ICAO has provided for the establishment of international Standards and Recommended Practices (SARPs) the uniform application of which is necessary in order to achieve the highest practicable degree of uniformity in regulations, standards, procedures and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

The draft Civil Aviation (Instruments and Equipment) Regulations, 2024 correspond to the SARPs issued by ICAO as Annex 10 to the Convention on international civil aviation. Kenya as a contracting State has an obligation under Article 37 to the Convention on International Civil Aviation to domesticate the SARPs into legally enforceable legislative material.

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

1.5 Regional Legislative Initiatives

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

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

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

2.0 Chapter Two – Purpose and Objects of the Civil Aviation (Instruments and Equipment) Regulations 2024

2.1 Scope

The Proposed Civil Aviation (Instruments and Equipment) Regulations 2024 shall be applicable to Aircraft registered in Kenya and any foreign registered Aircraft that uses an airworthiness inspection program approved or accepted by the State of Registry and operating in Kenya regards to the instruments and equipment requirements for operation.

2.2 Objective

The proposed Civil Aviation (Instruments and Equipment) Regulations, 2024 aim to create a comprehensive regulatory framework that enhances safety, promotes compliance, supports sustainability, encourages innovation, and strengthens international cooperation in the civil aviation sector. By achieving these objectives, the regulations will contribute significantly to the overall integrity and reliability of Kenya's aviation system.

The Civil Aviation (Instruments and Equipment) Regulations are designed to provide a legal framework for establishing requirements for:

- (a) general instruments and equipment requirements to fly an Aircraft registered in the Kenya;
- (b) additional or special equipment as the Authority may determine;
- (c) requirements for installation, stowing, maintenance and clarity marking of the emergency equipment on board the aircraft so as to not be the source of danger on the aircraft;
- (d) minimum equipment necessary for the issuance of a certificate of airworthiness;
- (e) instruments which enable the flight crew to control the flight path of the aeroplane, carry out any required procedural manoeuvres and observe the operating limitations of the Aircraft in the expected operating conditions; and
- (f) any foreign registered Aircraft that uses an airworthiness Inspection program approved or accepted by the State of Registry and operating in Kenya regards to the instruments and equipment.

2.3 Specific objectives

The proposed Civil Aviation (Instruments and Equipment) Regulations, 2024 aim to provide the requirements that applicable to Aircraft registered in Kenya and any foreign registered Aircraft that uses an airworthiness inspection program approved or accepted by the State of Registry and operating in Kenya regards to the instruments and equipment requirements for operation.

2.4 The Structure of the Proposed the Civil Aviation (Instruments and Equipment) Regulations 2024

The structure aims to evaluate the clarity, consistency, comprehensibility, and comprehensiveness of the proposed Regulations in relation to the instruments and equipment. It is essential that they are easily understood by those who may be impacted. To achieve this, the

KCAA has implemented measures to enhance the clarity of both the text and structure of the proposed Regulations.

The structure of the proposed Civil Aviation (Instruments and Equipment) Regulation is as follows:

Part	I	Preliminary Provisions
Part	II	General Requirements for Aeroplane Equipment and Instruments
Part	III	Flight and Navigational Instruments
Part	IV	Communication Equipment
Part	V	Instruments and Equipment
Part	VI	Flight Data Recorder and CVR
Part	VII	Emergency, Rescue and Survival Equipment
Part	VIII	Miscellaneous Systems and Equipment
Part	IX	Exemptions
Part	X	General Provisions

SCHEDULES

First Schedule – Lights to be displayed by (Commercial Air Transport) Aeroplanes

Second Schedule – Atimetry System Performance Requirements for Operations in RVSM
Airspace by (Commercial Air Transport) Aeroplanes

Third Schedule – Flight Recorders (Commercial Air Transport) Aeroplanes

Fourth Schedule – Lights to be displayed by Aeroplane (General Aviation) Aeroplanes

Fifth Schedule – Atimetry System Performance Requirements for Operations in RVSM
Airspace (General Aviation) Aeroplanes

Sixth Schedule – Flight Recorders (General Aviation) Aeroplanes

Seventh Schedule – Flight Recorders Helicopter Operations

Eighth Schedule – Location of an Aeroplane in Distress

Ninth Schedule - Penalties

Chapter Three – Background and Context

3.1 Policy Background

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

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

Kenya Vision 2030 is a nationwide multi-sectorial document that outlines the main policies, legal and institutional reforms as well as programs and projects that the Government plans to implement. The Vision 2030 aspires for a country firmly interconnected through a network of roads, railways, ports, air, water and sanitation facilities, and telecommunications. The expansion, modernization and management of the aviation sector continues to enhance air transport safety, security, and connectivity across the country and beyond. Civil aviation is a critical catalyst for global and national development. Air transport in Kenya has continued to grow and has contributed to job creation and increased interaction and trade with other countries.

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

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

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

plan covers operational evolutions, technical improvements, and human resources development.

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

3.2 Constitutional and Legal Background

The Constitution: The Constitution recognizes civil aviation as one of the functions under the National Government in the Fourth Schedule.

Chapter 4 of the Constitution provides for the Bill of Rights with Article 46 providing for consumer protection where it applies to goods and services offered by public entities or private persons. Aviation consumers have rights for services of reasonable quality; information necessary for them to get full benefit from the services; and protection of their economic interests.

Chapter 6 of the Constitution provides for leadership and integrity of State officers. Employees of the Authority are public officers and are bound by the various principles provided for in the Constitution. The regulations have largely provided for standardized ways of provision of quality services, information to be used by its consumers for protection of their economic interest, data protection issues, access to information while maintaining technical infrastructure within the aviation sector.

Article 94(6) of the Constitution gives Parliament the power to delegate its legislative authority to a State organ, State officer or person to make provision having the force of law in Kenya.

Civil Aviation Act: The Act was enacted to provide for the control, regulation and orderly development of civil aviation in Kenya; and for connected purposes.

Section 4 of the Act provides that the provisions of the Act and regulations made thereunder unless expressly excluded shall apply to: aerodromes used for civil aviation in Kenya; air services established or operating in Kenya; any aircraft registered by the Authority; any foreign aircraft within the Kenya territory; aviation personnel and training schools certified by the Authority; enterprises operating in Kenya in the design, manufacture, maintenance, repair and modification of aircraft and aircraft parts or components; and air navigation facilities and services in Kenya. Section 82 provides for the Regulations that can be made by the Cabinet Secretary responsible for aviation matters to give effect to the Act and for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention on aviation ratified by Kenya.

3.3 Domestic Context

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

The Civil Aviation (Instruments and Equipment) Regulations, 2024 enable KCAA to effectively discharge its mandate by establishing operational standards that ensure that the aviation system in Kenya is aligned to the standards established internationally and applicable globally. The Regulations therefore fulfil the obligations set out in the Civil Aviation Act and in support of the mandate of KCAA.

3.4 International Context

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

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

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

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

Further, Article 12 of the Convention requires that each contracting State undertakes to adopt measures to ensure that every aircraft flying over or manoeuvring within its territory complies with the rules and regulation and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and manoeuvre of aircraft there in force. Each

contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under the Convention. Over the high seas, the rules in force shall be those established under the Convention. Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable.

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

Article 12 of the Convention relating to scheduled air services provides that no scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

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

4 Chapter Four – Evaluation of the Problem

4.1 Currency of the Civil Aviation (Instruments and Equipment) Regulations 2018

The Civil Aviation (Instruments and Equipment) Regulations, 2018 provide a framework for the certification, maintenance, and operational standards of aviation instruments and equipment. These regulations were designed to align with the International Civil Aviation Organization (ICAO) standards to enhance safety in civil aviation.

To ensure their continued relevance, it is essential to regularly review these regulations for alignment with recent ICAO amendments, particularly in light of technological advancements in aviation. A systematic review process involving stakeholder consultation and regulatory impact assessments will help identify necessary updates.

The ongoing evaluation and periodic reviews are crucial for maintaining the effectiveness of the 2018 regulations. Addressing implementation gaps and resource limitations will further ensure that these regulations remain relevant and effective in promoting safety and compliance within the evolving aviation industry.

4.2 Sustainability of Civil Aviation System

4.2.1 International Obligation

The Civil Aviation (Instruments and Equipment) Regulations 2018 play a crucial role in facilitating effective communication within the civil aviation system, in accordance with the international obligations established by the International Civil Aviation Organisation (ICAO).

Essential Elements are:

- (a) **Alignment with International Standards:** The regulations should be in accordance with ICAO SARPs to facilitate effective communication between aircraft and air traffic control.
- (b) **Technological Advancements:** Regular updates are essential to integrate contemporary communication technologies, including Automatic Dependent Surveillance–Broadcast (ADS-B) and satellite communications.
- (c) **Capacity Building:** The regulations ought to promote initiatives that strengthen the capabilities of member states, especially those with limited resources, by providing technical assistance and training.
- (d) **Environmental Considerations:** Advancing technologies that minimise the environmental impact of aviation operations is crucial for achieving sustainability.
- (e) **Security Protocols:** It is essential to incorporate strong security protocols to safeguard communication systems against cybersecurity threats, in accordance with ICAO's commitment to protecting civil aviation.

Through the integration of advanced technologies, the support of capacity building, the addressing of environmental impacts, and the enhancement of security measures, these regulations can successfully meet international obligations while fostering safety and operational efficiency in global aviation. Continuous assessment and reviews are essential to address the changing challenges within the aviation industry.

4.2.2 Aviation Safety/Economics

The Civil Aviation (Instruments and Equipment) Regulations, 2018 play a crucial role in maintaining safety and efficiency within the civil aviation system, aligning with international obligations set by the International Civil Aviation Organization (ICAO). Effective aeronautical telecommunications are essential for real-time information exchange, enhancing situational awareness, and supporting decision-making in air traffic management.

Safety Enhancements: The regulations should incorporate advancements in technologies such as Automatic Dependent Surveillance–Broadcast (ADS-B) and satellite communications, which improve tracking and monitoring capabilities. Enhanced data sharing can reduce the risk of accidents and improve response times during emergencies.

Economic Efficiency: By optimizing communication systems, the regulations can contribute to reduced delays and fuel consumption, ultimately lowering operational costs for airlines. Efficient air traffic management supported by robust telecommunications can enhance the overall economic viability of the aviation sector.

These regulations are therefore important in promoting a safe, efficient, and economically viable aviation system. By ensuring alignment with ICAO standards, incorporating advanced safety technologies, enhancing economic efficiency, facilitating capacity building, addressing environmental impacts, and implementing robust cybersecurity measures, these regulations can significantly contribute to the resilience and sustainability of global aviation. Continuous review and adaptation are necessary to meet evolving challenges and maintain compliance with international standards in a complex aviation environment.

4.2.3 Operational rights to other jurisdictions

The regulations must address complexities related to operational rights across jurisdictions, ensuring that telecommunications infrastructure supports cross-border operations and complies with varying regulatory frameworks.

Incorporating advanced technologies such as Automatic Dependent Surveillance–Broadcast (ADS-B) and satellite communications improves tracking and monitoring capabilities, reduces accident risks, and enhances emergency response times.

Optimizing communication systems leads to reduced delays and fuel consumption, ultimately lowering operational costs for airlines. Efficient air traffic management supported by robust telecommunications enhances the economic viability of the aviation sector.

The regulations should promote training and technical assistance for member states, especially those with limited resources. Strengthening local capabilities ensures compliance with international standards and enhances global aviation safety.

Given the increasing threats to aviation systems, the regulations must include robust security protocols to safeguard communication networks from unauthorized access and interference, aligning with ICAO's emphasis on protecting civil aviation operations.

4.2.4 Reduction of Cost of Doing Business

By optimizing communication systems, the regulations can significantly reduce operational costs for airlines. Efficient aeronautical telecommunications lead to fewer delays, improved flight routing, and reduced fuel consumption, which directly impacts the bottom line for operators. Enhanced data sharing among air traffic management systems can streamline operations, leading to cost savings across the industry.

5 Chapter Five – Stakeholder Consultation

5.1 Legal requirements relating to public participation and consultation

Statutory Instruments Act

The need to amend the Civil Aviation (Instruments and Equipment) Regulations, 2018 was necessitated by a series of ICAO State Letters informing the State of amendments to Annex 10 that would become effective on specified dates. Kenya as a contracting State was therefore required to bring its regulations into uniformity with the adopted and amended SARPS.

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

In addition, Article 118 of the Constitution provides the right to public participation in legislative and other processes of the State. This ensures that the public has an opportunity to participate in matters that affect them directly.

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

5.2 The Process of Public Consultation

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

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

5.3 Public Notice and Awareness

Each stakeholders engagement fora was advertised at least twenty-one (21) days before the date of the engagement in a major local daily in accordance with applicable

requirements for stakeholder engagement. Additionally, formal notice of the same was posted on the KCAA official website. All sets of regulations to be discussed during the public participation fora were well spelt out in the adverts. An online registration form was provided on the website in addition to a form to collect stakeholder comments which was uploaded alongside the regulations on the KCAA website www.kcaa.or.ke.

5.4 Public participation forum

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

5.5 Analysis and Feedback

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

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

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

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

5.6 Credibility and Integrity of the Process

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

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

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

6 Chapter Six – Cost Benefit Analysis

6.1 Costs and Benefits Generally

The proposed Civil Aviation (Instruments and Equipment) Regulation 2024 aims to ensure that Kenya aligns with international Aeronautical Telecommunication standards for aircraft registered in Kenya and any foreign registered Aircraft operating in Kenya with regards to the Instruments and Equipment requirements for operation.

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

Table 01

PROBLEM	PROPOSED REFORM	BENEFITS	COST
1.Outdated Civil Aviation (Instruments and Equipment) Regulations	Amendment to align with international standards set by the International Civil Aviation Organization (ICAO) i.e. Annex 10, Vol I Eighth Edition of July 2023, Vol II Seventh Edition of July 2016, Vol III Second Edition of July 2007	Improved alignment with international standards can enhance Safety of Aircraft.	Nil

6.2 Consideration of Alternatives to the Civil Aviation (Instruments and Equipment) Regulations 2024

Table 02

Option	Impact
Option One: Maintenance of the Status Quo	Maintaining status quo means that no regulations are developed, thus the challenges of currency and keeping up with the international obligations and requirements will not be addressed.
Option Two: Administrative measures	Issuance of directives and circulars to the various entities and hoping that they will be implemented. Administrative measures do not have the force of law and may be challenged in court of law. These include Advisory Circular and Aeronautical Information

Option	Impact
	Circular.
Option Three: Promulgating the Civil Aviation (Instruments and Equipment) Regulations 2024	The promulgation of the civil aviation (Instruments and Equipment) Regulations 2024 will ensure that Kenya aligns with international Aeronautical Telecommunication standards for aircraft registered in Kenya and any foreign registered Aircraft operating in Kenya with regards to the Instruments and Equipment requirements for operation.

6.3 Impact analysis of the Options

Table 03

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Instruments and Equipment) Regulations 2024
Maintenance Organisation	Not promulgating updated regulations would likely hinder maintenance efficiency, increase safety risks due to inadequate communication systems, and stifle technological advancement, potentially leading to delays in identifying and addressing aircraft safety issues.	1. Organizations may find it challenging to comply with administrative documents if they lack the rigor and specificity that formal regulations provide. 2. Relying on administrative documents may lead to a fragmented approach to regulation, with varying practices that hinder safety and efficiency across the aviation sector. 3. Stakeholders may resist adopting administrative documents that lack the authority and clarity of formal regulations, resulting	While the new regulations may initially impose additional costs for compliance and training, the overall impact will enhance operational safety, ensure more efficient communication between maintenance and operational teams, and contribute to higher standards of maintenance practices.

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Instruments and Equipment) Regulations 2024
		in a lack of commitment to compliance.	
Aviation Service Consumer	Failure to update the regulations could increase safety risks for passengers, as poor communication between flight crews, air traffic control, and maintenance teams can lead to slower responses in emergencies, miscommunications, and delayed safety measures, ultimately putting lives at risk and eroding consumer trust.	Implementation of administrative measures may sustain safety risks for passengers, as poor communication between flight crews, air traffic control, and maintenance teams can lead to slower responses in emergencies, miscommunications, and delayed safety measures, ultimately putting lives at risk and eroding consumer trust.	The promulgation of the regulations will likely result in a safer and more reliable flying experience for passengers due to better communication protocols, enhanced emergency response systems, and more efficient operational processes.
The State	Not updating the regulations would expose the State to international sanctions, create challenges in managing airspace effectively, and negatively impact the national economy by reducing the competitiveness of the aviation sector. Additionally, aviation safety standards could be compromised, potentially putting the country's global standing and national security at risk.	1. Relying on administrative documents can lead to a fragmented regulatory framework. 2. Stakeholders may be less likely to adhere to administrative guidelines that lack the authority of formal regulations, reducing the effectiveness of the intended safety measures.	The promulgation of the regulations strengthens national aviation safety, enhances air traffic management, improves coordination with military and security agencies, and bolsters Kenya's international standing. It also helps drive economic growth by making aviation safer, more efficient, and globally competitive.
The Authority	Not promulgating the regulations would severely hinder KCAA's ability to enforce modern	1. Administrative documents typically do not carry the same legal weight as formal	The promulgation of the regulations equips the CAA with the legal tools to effectively monitor,

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (Instruments and Equipment) Regulations 2024
	aviation safety standards, implement new technologies, and maintain the country's global standing in aviation safety. It could also expose the authority to challenges during safety audits and leave gaps in regulatory oversight, increasing risks to aviation safety.	regulations, making enforcement difficult and leading to uncertainty among stakeholders about compliance requirements. 2. Without formal Regulations, there may be inconsistencies in how the documents are interpreted and applied to registration and deregistration resulting in variable maintenance practices. 3. The process of developing administrative documents may not involve comprehensive consultations with all relevant stakeholders, potentially missing important input from industry experts and operators. 4. Administrative documents can sometimes lack the specificity and clarity needed to guide organizations effectively, leading to confusion about maintenance standards and practices.	regulate, and enhance aviation safety. It enhances the authority's ability to implement global standards, improve air traffic management, and ensure compliance with modern communication systems, which collectively improves the safety and efficiency of Kenya's aviation sector.

6.4 Preferred Option

Based on the above analysis it is clear the third option the civil aviation (Instruments and Equipment) Regulations 2024 is the preferred option. The benefits and impact of promulgating the civil aviation (Instruments and Equipment) Regulations 2024 by far outweigh any estimated cost of its implementation. The other two options have little or no impact in addressing the problems outlined above.

7 Chapter Seven – Compliance and Implementation

As different aspects of the proposed Regulations are evaluated and analysed, it is important to determine how compliance and implementation of the actual provisions will be achieved. It is the duty of the Regulator to assess the adequacy of the institutional framework and other incentives through which the Regulations will take effect, and design responsive implementation strategies that make the best use of them.

In an ideal situation an institution responsible for enforcement of the Regulations should have the capacity of co-ordination of institutional frameworks from a whole-of-government perspective, independent and sufficient authority, political support at a high political level, and integration into a broad concept of reform.

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

8 Chapter Eight – Conclusions & Recommendations

8.1 Conclusions

8.1.1 Based on the above analysis, the following conclusions are drawn in respect of the draft Civil Aviation (Instruments and Equipment) Regulations, 2024:

8.1.2 Regulations making mandate: Article 94 (6) of the Constitution gives parliament the power to delegate its legislative authority to a State organ, State officer or person to make provision having the force of law in Kenya. Subsequently, Section 82 of the Civil Aviation Act empowers the Cabinet Secretary in Consultation to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention.

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

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

8.1.2.2 The RIA structure and content requirements established in the Statutory Instruments Act requirements have been fully met. Additionally, public consultation requirements in respect of the Civil Aviation (Instruments and Equipment) Regulations have been fully adhered to.

8.1.2.3 Other legal frameworks: The draft Civil Aviation (Instruments and Equipment) Regulations, 2024 proposes to publish regulations in harmony with other civil aviation regulations to effectively govern the civil aviation system in Kenya.

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

8.2 Recommendations

In view of the above conclusions, it is recommended that the draft Civil Aviation (Instruments and Equipment) Regulations, 2024 be adopted.

9 Annexures

9.1 The Draft Civil Aviation (Instruments and Equipment) Regulations, 2024

9.2 Matrix of Comments received from Stakeholder Consultations