



REPUBLIC OF KENYA
MINISTRY OF ROADS AND TRANSPORT

REGULATORY IMPACT ASSESSMENT
For the Civil Aviation (APPROVED MAINTENANCE ORGANIZATION) Regulations
2024

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This Regulatory Impact Assessment (RIA) has been prepared by the Cabinet Secretary - Ministry of Roads and Transport pursuant to Section 6 and 7 of the Statutory Instruments Act (No.23 of 2013)

Table of Content

Catalog

Table of Content	2
1.0 CHAPTER ONE – INTRODUCTION	4
1.1 Regulatory-Making Authority and the Legal Mandate	4
1.2 Requirements of the Statutory Instruments Act	5
1.3. What is a Regulatory Impact Assessment (RIA)?	6
2.0 CHAPTER TWO – PURPOSE AND OBJECTS OF THE CIVIL AVIATION (APPROVED MAINTENANCE ORGANIZATION) REGULATIONS 2024.....	6
2.1 Scope	6
2.2 Objective	7
2.3 Specific objectives	7
2.4 An Overview Of The Proposed Civil Aviation (Approved Maintenance Organization) Regulations 2024: Salient Features.....	9
3.0 CHAPTER THREE – BACKGROUND, CONTEXT AND LEGAL FRAMEWORKS	10
3.1 Policy Background.....	10
3.2 Domestic Context.....	11
3.2.1 The Civil Aviation Act.....	11
3.3 Regional Legislative initiatives.....	12
3.4 International Context	12
4.0 CHAPTER FOUR – EVALUATION OF THE PROBLEM	13
4.1.1 International Obligation	14
4.1.2 Aviation Safety	14
4.1.3 Operational rights to other jurisdictions.....	15
4.1.4 Reduction of Cost of Doing Business	16
5.0 CHAPTER FIVE – STAKEHOLDER CONSULTATION.....	16
5.1Legal requirements relating to public participation and consultation	17
5.2The Process of Public Consultation	17
5.3Public Notice and awareness	17
5.4 Public participation forums	17
6.0 CHAPTER SIX – COST BENEFIT ANALYSIS.....	17

6.1 Consideration of Alternatives to the Civil Aviation (AMO) Regulations 2024	18
6.2 Cost Benefit Analysis	18
6.3 Impact analysis of the Options	19
7.0 CHAPTER SEVEN – COMPLIANCE AND IMPLEMENTATION	25
8.0 CHAPTER EIGHT – CONCLUSIONS & RECOMMENDATIONS	26
8.1 Conclusions	26
8.2 Recommendations	26
8.3 Annexures	26
The Draft Civil Aviation (AMO) Regulations 2024	26
Matrix for stakeholder consultations	26

1.0 CHAPTER ONE – INTRODUCTION

1.1 Regulatory-Making Authority and the Legal Mandate

Kenya Civil Aviation Authority is established under the Kenya Civil Aviation Act No. 21 of 2013 (the Act) with the primary functions being Regulation and Oversight of 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.

The object and purpose for which the Authority was established are, 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.

Section 82 (1) of the Civil Aviation Act, 2013 empowers the Cabinet Secretary, at the time being in Charge of 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 regulations may be developed for:

- 1.1.1 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;
- 1.1.2 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;
- 1.1.3 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;
- 1.1.4 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;

- 1.1.5 prescribing charges or enabling some other authority to prescribe charges to be paid in respect of air navigation services, regulatory services and providing for the recovery of such charges;
- 1.1.6 exempting any aircraft or persons or classes of aircraft or persons from the provisions of any regulations made under this Act;
- 1.1.7 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;
- 1.1.8 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;
- 1.1.9 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.
- 1.1.10 the design, construction, repair, overhaul, maintenance, operation and use of aircraft, maintenance and repair of facilities and related equipment;

The Regulations are developed in partial fulfillment of the requirements of the Statutory Instruments Act.

1.2 Requirements of the Statutory Instruments Act

The Statutory Instruments Act, No. 23 of 2013 (SIA) is the legal framework governing the conduct of RIA in Kenya. 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:

- 1.2.1 a statement of the objectives of the proposed legislation and the reasons for them
- 1.2.2 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
- 1.2.3 a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
- 1.2.4 an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives;
- 1.2.5 the reasons why the other means are not appropriate;
- 1.2.6 any other matters specified by the guidelines;

- 1.2.7 a draft copy of the proposed statutory rule. Section 5 of SIA requires an RMA to conduct public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

1.3. What is a Regulatory Impact Assessment (RIA)?

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

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

Typically, the structure of a RIA should contain the following elements: title of the proposal, the objective and intended effect of the regulatory instrument, an evaluation of the problem, consideration of alternative options, assessment of all their impacts including cost-benefit analysis, results of public consultation, compliance strategies, and processes for monitoring and evaluation.

RIA promotes evidence-based policy-making 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.

2.0 CHAPTER TWO – PURPOSE AND OBJECTS OF THE CIVIL AVIATION (APPROVED MAINTENANCE ORGANIZATION) REGULATIONS 2024

2.1 Scope

The scope of application of the proposed Civil Aviation (Approved Maintenance Organization) Regulations, 2024 relates to:

- a) Certification and approval procedures and requirements;
- b) Maintenance activities including inspections and repairs;
- c) Personnel requirements including minimum qualifications, licensing and training for maintenance personnel;
- d) Facilities and equipment including hangars, workshops and tooling;
- e) Quality assurance and safety;

- f) Record keeping and documentation;
- g) Compliance with national and international standards.
- h) Continued airworthiness; and
- i) Incident reporting and investigation.

2.2 Objective

The Civil Aviation (Aircraft Maintenance Organization) Regulations are designed to guarantee the safety, reliability, and airworthiness of aircraft by establishing standardized maintenance practices for individuals and organization that are involved in the maintenance of aircraft, engines, propellers, and associated parts including all individuals who operate or maintain aircraft registered in Kenya.

2.3 Specific objectives

The objectives of Civil Aviation Approved Maintenance Organization (AMO) Regulations, 2024 are to ensure that aircraft maintenance is conducted in a safe, consistent, and high-quality manner. These regulations establish standards and requirements that maintenance organizations must meet to ensure the airworthiness and operational reliability of aircraft. Below are the primary objectives:

- a) **Ensure Safety**
 - i. Protect passengers, crew, and the public by ensuring all maintenance work adheres to safety standards.
 - ii. Promote compliance with manufacturer maintenance instructions and regulatory guidelines.
 - iii. Reduce the likelihood of accidents or incidents caused by maintenance-related issues.
- b) **Maintain Airworthiness**
 - i. Ensure that aircraft are maintained in a condition that meets airworthiness requirements.
 - ii. Verify compliance with national and international regulations for aircraft maintenance and inspections.
- c) **Standardize Maintenance Practices**
 - i. Provide a uniform set of standards for maintenance procedures, tools, and equipment.
 - ii. Harmonize maintenance operations across organizations, enabling consistency within the aviation industry.

- d) Ensure Qualified Personnel
 - i. Require maintenance personnel to possess appropriate licenses, training, and certifications.
 - ii. Mandate continuous professional development and competency assessments.

- e) Implement Quality Control Systems
 - i. Establish robust quality assurance and audit mechanisms to monitor maintenance activities.
 - ii. Ensure traceability and documentation of all maintenance work performed on aircraft.

- f) Promote Regulatory Compliance
 - i. Align AMO operations with International Civil Aviation Organization (ICAO) standards.
 - ii. Facilitate inspections, audits, and certifications to ensure ongoing compliance.

- g) Enhance Operational Efficiency
 - i. Encourage the use of advanced tools, technology, and systems to improve maintenance efficiency.
 - ii. Minimize downtime and operational disruptions by ensuring timely and effective maintenance.

- h) Foster International Cooperation
 - i. Harmonize with international regulations (e.g., ICAO) to enable global operations and mutual recognition of certifications.
 - ii. Support cross-border maintenance agreements and operations.

- i) Enhance Public Trust and Confidence

- i. Demonstrate the aviation industry's commitment to maintaining the highest safety and reliability standards.
- ii. Reinforce public confidence in air travel by ensuring a robust maintenance framework.

2.4 An Overview Of The Proposed Civil Aviation (Approved Maintenance Organization) Regulations 2024: Salient Features

This overview aims to evaluate the clarity, consistency, comprehensibility, and comprehensiveness of the proposed Regulation in relation to the identified issue. It is essential that the rules are easily understood by those who may be impacted. To achieve this, the Kenya Civil Aviation Authority has implemented measures to enhance the clarity of both the text and structure of the proposed Regulation.

The structure of the proposed Civil Aviation (Approved Maintenance Organization) Regulation is as follows:

- Part I—Preliminary Provisions (Definition of terms and scope of application).
- Part II—Certification (Application, approval and issuance of Certificates, validity and renewal, maintenance and safety management)
- Part III—Facilities (Requirements on technical data, personnel, facilities, equipment, tools and materials)
- Part IV—Administration (Personnel training, qualifications for management personnel, assessment, man hours, rest and duty limitation)
- Part V—AMO Operating Rules (Maintenance organization's procedures manual and system, Capability list, AMO privileges and limitations, maintenance of records, airworthiness technical data, occurrence reporting and inspections)
- Part VI—Exemptions (application for exemption, substance for exemption, and evaluation of the request)
- Part VII—General Provisions (Physical possession of the license, certificate or authorization at work place etc.
- Part VIII—Miscellaneous Provisions (revocation of license, certificate or authorization, appeals to the Tribunal, offences and penalties)

Schedules

- First Schedule - Approved Maintenance Organization Certificate
- Second Schedule - Maintenance Organization Procedures Manual
- Third Schedule - Penalties

3.0 CHAPTER THREE – BACKGROUND, CONTEXT AND LEGAL FRAMEWORKS

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 2030 Vision 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 (BETA): The Bottom-Up Economic Transformation Plan 2022-2027 is the manifesto of the current administration that will be implemented over the next five years. The agenda is built on six main pillars, to be being implemented through five (5) MTP IV sectors that include Infrastructure. The pillars are Agricultural transformation and inclusive growth, Micro, Small and Medium Enterprise (MSME) economy, Housing and settlement, Healthcare and Digital superhighway and creative economy:

One of the aims under the 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.

Constitution of Kenya 2010: 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. Article 46 provides 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 including the conduct of state officers and public officers. Employees and officers of the Authority are public officers hence they are bound by the principles of Chapter 6 of 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.

Civil Aviation Act: The Civil Aviation Act No. 21 of 2013 was enacted to provide for the control, regulation and orderly development of civil aviation in Kenya; and for connected purposes. Section 4 of the Act provides that the provisions of the Act and regulations made thereunder unless expressly excluded shall apply to: aerodromes used for civil aviation in Kenya; air services established or operating in Kenya; any aircraft registered by the Authority; any foreign aircraft within the Kenya territory; aviation personnel and training schools certified by the Authority; enterprises operating in Kenya in the design, manufacture, maintenance, repair and modification of aircraft and aircraft parts or components; and air navigation facilities and services in Kenya. Section 82 provides for the Regulations that can be made by the Cabinet Secretary responsible for aviation matters to give effect to the Act and for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention on aviation ratified by Kenya.

3.2 Domestic Context

Based on the provisions of the international civil aviation convention, related ICAO Standards and Recommended Practices (SARPs), the Kenya Civil Aviation Act, 2013, and civil aviation regulations, the Kenya Civil Aviation Authority (KCAA) is established to regulate and oversee aviation safety and security, provide air navigation services, regulate and oversee the economic development of air services, and train aviation personnel.

The development of any nation depends on the establishment of a thriving and fiercely competitive civil aviation sector. In appreciation of the aforementioned function, KCAA promotes investments from both domestic and foreign airlines. By doing this, KCAA is contributing to the full implementation of Vision 2030, which aims to make Kenya a middle-income nation by 2030.

The current Civil Aviation (AMO) Regulation came into operation on 4th May 2018 and is has been in force since then. By overview, the Proposed Regulation provides for the amendments carried out by ICAO on Annex 8 during the period 2018 and 2023, the technological and industry advancement. This Regulations further describe the requirements for establishing the safety, reliability, and airworthiness standards.

3.2.1 The Civil Aviation Act

The Civil Aviation Act CAP 394 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.

The draft Civil Aviation (AMO) Regulations, 2024 have been developed under section 82 of the Civil Aviation Act.

3.3 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 fulfill the regional obligations to a safe, secure and economically viable air transport system.

3.4 International Context

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

As a global forum of States for international civil aviation. ICAO develops policies and Standards, undertakes compliance audits, performs studies and 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 Adoption of international standards and procedures requiring each contracting State undertaking to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

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

Further, Article 12 of the Convention requires that each contracting State undertakes to adopt measures to ensure that every aircraft flying over or manoeuvring within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and manoeuvre of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to ensure the prosecution of all persons violating the regulations applicable. Internationally, each of the 193 contracting States has, in compliance with their national commitments and obligations under the Convention, established national civil aviation regulations with the objective of governing the aviation industry in their jurisdiction.

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

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

4.0 CHAPTER FOUR – EVALUATION OF THE PROBLEM

The Civil Aviation (Approved Maintenance Organization) Regulations of 2018 (AMO Regulations) legal notice No. 93 established a framework for the operation and management of maintenance organizations within Kenya's civil aviation sector. Despite the advancements introduced by these regulations, several critical challenges have been identified that undermine their effectiveness and compliance with international standards:

4.1 Currency of the Civil Aviation (Approved Maintenance Organization) Regulations: Kenya as a state is a signatory to the ICAO Chicago Convention and is obliged to adopt the amendments of the ICAO SARPs. ICAO continues to update the Standards and Recommended Practices. ICAO Annex 8 which is the basis of development of the Civil Aviation (Approved Maintenance Organization) Regulation 2024 is currently at Edition 13th of July 2022. The Civil Aviation (Approved Maintenance Organization) Regulation 2018 had become increasingly misaligned with the evolving International Civil Aviation Organization (ICAO) Standards leading to significant challenges for compliance and operational safety within the aviation

maintenance sector. It has also failed to reflect the advancements in technology, safety protocols, and industry best practices.

4.2 Sustainability of Civil Aviation System

4.1.1 International Obligation

The sustainability of the civil aviation system is increasingly scrutinized in light of international obligations to combat climate change and reduce greenhouse gas emissions, as outlined in global agreements such as the Paris Agreement and the International Civil Aviation Organization's (ICAO) Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). The existing Civil Aviation (Approved Maintenance Organization) Regulation 2018 lacks comprehensive provisions that promote sustainable maintenance practices, leaving Approved Maintenance Organizations (AMOs) without a clear framework to align their operations with these critical international commitments.

This regulatory gap impedes the aviation sector's ability to implement environmentally responsible practices, such as the adoption of sustainable materials, energy-efficient maintenance processes, and effective waste management strategies. Without explicit guidelines and requirements for sustainability, AMOs may struggle to quantify and reduce their environmental impact, ultimately compromising the industry's ability to meet international sustainability targets. Furthermore, as advancements in sustainable aviation technologies emerge, the regulation fails to address the unique maintenance requirements of newer, eco-friendly aircraft, which could hinder the integration of innovative solutions that are vital for reducing the aviation sector's carbon footprint.

To ensure compliance with international sustainability obligations and to foster a responsible and competitive aviation industry, it is essential to amend the Civil Aviation (AMO) Regulation 2018. Such amendments would facilitate the incorporation of sustainable practices into maintenance operations, promote transparency in environmental reporting, and support the integration of emerging technologies, thereby positioning the civil aviation system as a leader in global sustainability efforts.

4.1.2 Aviation Safety

The sustainability of the civil aviation system is increasingly intertwined with aviation safety, as environmental practices directly impact operational reliability and safety outcomes. The Civil Aviation (Approved Maintenance Organization) Regulation 2018 currently lacks explicit provisions that integrate sustainability into safety protocols and maintenance practices. This regulatory gap can lead to

unintended safety risks, as the implementation of environmentally sustainable practices, such as the use of alternative materials and new technologies, may not be adequately assessed for their impact on safety.

As the industry shifts towards more sustainable practices—such as the adoption of biofuels, electric aircraft, and innovative waste management systems—there is a pressing need for regulations that ensure these changes do not compromise safety standards. The absence of guidelines to evaluate the safety implications of sustainable materials and practices may result in increased risks of maintenance failures or operational incidents.

Moreover, as AMOs strive to meet sustainability goals, the lack of a structured approach to integrating safety management systems with sustainability initiatives may lead to fragmented efforts that undermine both safety and environmental objectives. This misalignment can create challenges in maintaining high safety standards while pursuing environmental improvements, potentially jeopardizing public trust in aviation safety.

To address these critical issues and ensure that sustainability efforts enhance rather than detract from aviation safety, it is essential to amend the Civil Aviation (AMO) Regulation 2018. Such amendments would provide a framework for evaluating the safety implications of sustainable practices, fostering a holistic approach that prioritizes both environmental responsibility and operational safety in the civil aviation system.

4.1.3 Operational rights to other jurisdictions

The sustainability of the civil aviation system is increasingly critical in relation to operational rights in other jurisdictions, particularly as countries implement varying environmental regulations and sustainability commitments. The existing Civil Aviation (Approved Maintenance Organization) Regulation 2018 does not adequately address the need for harmonization with international sustainability standards, which poses challenges for Approved Maintenance Organizations (AMOs) seeking to operate across borders.

As international markets increasingly prioritize environmentally responsible practices, the lack of alignment between national regulations and international sustainability expectations may hinder the operational rights of AMOs in jurisdictions that enforce stricter environmental regulations. This misalignment could lead to operational delays, increased compliance costs, and competitive disadvantages for organizations unable to demonstrate their commitment to sustainability in accordance with international norms.

Furthermore, the current regulation does not provide a clear framework for AMOs to adapt their operations to meet the sustainability criteria required for securing

operational rights in other jurisdictions. Without such guidance, AMOs may face difficulties in developing and implementing strategies that align with both local and international sustainability standards, potentially jeopardizing their ability to expand and operate effectively in a globalized market.

To ensure that the civil aviation system remains competitive and compliant with international obligations, it is essential to amend the Civil Aviation (AMO) Regulation 2018. Such amendments would facilitate the integration of sustainability requirements into operational protocols, enabling AMOs to align with global standards and maintain their operational rights across various jurisdictions, thereby supporting a sustainable and resilient aviation industry.

4.1.4 Reduction of Cost of Doing Business

The sustainability of the civil aviation system is increasingly linked to the cost of doing business, particularly as organizations strive to implement environmentally responsible practices while maintaining economic viability. The current Civil Aviation (Approved Maintenance Organization) Regulation 2018 lacks provisions that encourage sustainable maintenance practices, which can lead to higher operational costs due to inefficiencies and outdated processes.

Without regulatory support for the adoption of innovative, sustainable technologies—such as energy-efficient maintenance equipment, waste reduction strategies, and sustainable sourcing—Approved Maintenance Organizations (AMOs) may find themselves incurring additional expenses that could otherwise be mitigated. This regulatory gap limits the ability of AMOs to capitalize on cost-saving opportunities that come with sustainable practices, such as reduced energy consumption and waste disposal costs.

Moreover, the absence of a clear framework for integrating sustainability into maintenance operations may result in missed opportunities for collaboration and resource sharing among organizations. By not incentivizing sustainable practices, the regulation can inadvertently perpetuate a cycle of higher costs, ultimately affecting the overall competitiveness of the civil aviation sector.

To enhance the economic sustainability of the civil aviation system while promoting environmentally responsible practices, it is essential to amend the Civil Aviation (AMO) Regulation 2018. Such amendments would support the integration of sustainable maintenance practices, enabling AMOs to reduce operational costs, improve efficiency, and contribute to a more sustainable aviation industry that is better positioned for long-term success.

5.0 CHAPTER FIVE – STAKEHOLDER CONSULTATION

5.1	Legal requirements relating to public participation and consultation <i>Statutory Instruments Act</i>
5.2	The Process of Public Consultation Narration
5.3	Public Notice and awareness Narration and attachment of notices
5.4	Public participation forums Narration of dates
4.2	Analysis and Feedback Refer to Matrices
4.3	Credibility and integrity of the Process
4.3.1	To ensure that the process of public participation was credible and pass the integrity test, KCAA did:
4.3.1.1	not engage in conduct involving dishonesty, fraud, deceit, misrepresentation, or discrimination and avoid relationships or actions, which could be legitimately interpreted as a conflict of interest; and,
4.3.1.2	took into consideration the social and economic status, religious beliefs, ethnicity, and other social diversities of those engaging in public participation.
4.3.2	Complaints arising from public participation process if any were referred to the Director General through and resolved as appropriate including provision of additional time and contact to address any stakeholders concerns.

6.0 CHAPTER SIX – COST BENEFIT ANALYSIS

6.1 Costs and Benefits Generally

Maintaining status quo would mean that Kenya will continue administering the existing Regulations which were put in place many years ago. Given the fact the aviation technology is highly dynamic and international bodies keep issuing new standards, it is possible old regulations will occasion application of outdated technology.

The other option would be to implement the latest international standards through administrative measures like use of manuals and circulars. This is not only unenforceable but also unsustainable

The implementation of the amended Civil Aviation (AMO) Regulation 2018 presents both significant costs and substantial benefits but the benefits outweigh the costs. While initial compliance and transition costs may be considerable, the long-term benefits—ranging from enhanced safety and operational efficiency to improved alignment with international standards—

justify these expenditures. The overall positive impact on sustainability, safety, and economic growth underscores the necessity for these regulatory changes in fostering a resilient civil aviation system in Kenya.

6.1 Consideration of Alternatives to the Civil Aviation (AMO) 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 Circular.
Option Three: Promulgating the Civil Aviation (AMO) Regulations 2024	The promulgation of the civil aviation (AMO) Regulations, 2024 will ensure that Kenya aligns with international standards and there is standardized maintenance practices for individuals and organizations that are involved in the maintenance of aircraft, engines, propellers, and associated parts including all individuals who operate or maintain aircraft registered in Kenya.

6.2 Cost Benefit Analysis

	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
Costs	Risk of outdated technology	Impossible to implement Lack of international uniformity	Certification fees Equipment upgrades Training Compliance monitoring
Benefits	None	None	Reduced accidents Improved reliability Enhanced international competitiveness

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 (AMO) Regulations 2024
Maintenance Organisation	1. Difficulty in accessing international markets which leads to trade imbalance. 2. unethical conduct and unfair business practices; 3. Safety standards may become outdated, increasing the likelihood of accidents and incidents due to inadequate maintenance practices. 4. Operational Inefficiencies	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 Circular 1. Administrative documents may lack the same legal standing as formal regulations, leading to uncertainty in enforcement and compliance.	1.Enhanced Safety and Risk Management: Implementing SMS is expected to reduce accident rates significantly, translating into long-term savings by minimizing costs associated with accidents, insurance claims, and compensation for victims. 2.Improved Operational Efficiency: Streamlined processes and enhanced training can lead to increased operational efficiency within AMOs. This

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
	due the lack in addressing current industry practices and technologies, leading to inefficiencies in maintenance processes and operations. 5. Airlines and maintenance organizations may struggle to comply with international standards, risking penalties and loss of certification. 6. Inconsistent maintenance practices can lead to higher operational costs, including unplanned repairs, longer downtime, and reduced aircraft availability. 7. Stakeholders, including passengers and industry partners, may lose confidence in the safety and reliability of air transport services.	2. Without the framework of formal regulations, there may be variations in how administrative documents are interpreted and applied across different organizations. 3. The process for creating administrative documents might not involve the same level of stakeholder consultation as formal regulatory development, potentially resulting in overlooked concerns or needs. 4. Administrative documents may not impose clear accountability measures, making it difficult to hold organizations responsible for non-compliance. 5. Organizations may find it challenging to comply with administrative documents if they lack the rigor and specificity that formal regulations provide.	efficiency can reduce maintenance turnaround times and improve aircraft availability, ultimately benefiting airlines and passengers through enhanced service delivery.

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
	8. Non-compliance with regulations can lead to legal challenges and increased liability for airlines and maintenance organizations.	6. Insufficient Training and Guidance: Administrative documents may not provide the comprehensive guidance and training necessary for effective implementation, leading to gaps in knowledge and skills among maintenance personnel. 7. Potential for Fragmentation: Relying on administrative documents may lead to a fragmented approach to regulation, with varying practices that hinder safety and efficiency across the aviation sector. 8. Stakeholders may resist adopting administrative documents that lack the authority and clarity of formal regulations, resulting in a lack of commitment to compliance.	

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
The State	1. The inability to implement modern maintenance regulations can stifle the growth of the aviation sector, affecting economic development and regional connectivity. 2. jeopardize safety, operational efficiency, and the reputation of the aviation industry.	1. Relying on administrative documents can lead to a fragmented regulatory framework, where different organizations may adopt varying practices that compromise overall safety and operational efficiency. 2. Administrative documents may not cover all necessary aspects of aircraft maintenance, leaving potential gaps that could jeopardize safety. 3. 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.	1. Alignment with International Standards: The amendments will ensure compliance with International Civil Aviation Organization (ICAO) standards, enhancing Kenya's reputation in the global aviation market. This alignment can facilitate international partnerships and open up new operational rights in foreign jurisdictions, potentially increasing market access for Kenyan airlines. 2. Environmental Sustainability: By promoting sustainable practices within maintenance operations, the amendments can contribute to reducing the aviation sector's carbon footprint. This aligns with global sustainability goals and may attract environmentally conscious investors and customers. 3. Economic Growth: Improved safety and operational standards can enhance consumer confidence in air

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
			travel, leading to increased passenger numbers and economic growth within the aviation sector. Enhanced aviation services can stimulate tourism and trade, contributing positively to Kenya's economy.
The Authority	1. The authority may lose credibility and trust among stakeholders, including airlines, maintenance organizations, and the public, if it fails to implement timely regulations. 2. The authority may struggle to effectively oversee safety practices, leading to potential increases in accidents and incidents within the aviation sector. 3. A lack of robust regulations can deter investment in the aviation sector, stunting growth and economic development in the country and the region. 4. The authority may face increased legal challenges and	Developing administrative documents instead of promulgating new Aircraft Maintenance Organization (AMO) regulations for a Civil Aviation Authority (CAA) can pose several challenges: 1. Administrative documents typically do not carry the same legal weight as formal 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 across different AMOs, resulting in variable	1. Promulgation of this Regulations will establish and enhance safety standards, reducing the risk of accidents and incidents related to aircraft maintenance. 2. This Regulations will carry legal weight, allowing the CAA to enforce compliance and hold organizations accountable for non-compliance, thereby improving overall industry adherence to safety practices. 3. The New regulations promote uniformity across the aviation sector, ensuring that all AMOs adhere to the same standards, which enhances safety

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
	liabilities if accidents occur due to outdated or inadequate maintenance regulations. 5. Without clear regulations, training programs for maintenance personnel may become stagnant, affecting the skill development necessary for a competent workforce. 6. The authority may experience challenges in coordinating with other national and international regulatory bodies, complicating collaborative efforts to enhance aviation safety and security.	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. 5. It may be challenging to hold organizations accountable for non-compliance if the guidelines are not formally codified into regulation, which can lead to a lack of adherence to safety standards. 6. Without Regulations, there may be insufficient	and operational efficiency. 4. Well-defined regulations provide clear guidance for AMOs, helping them understand their responsibilities and the requirements they must meet for compliance. 5. The CAA can conduct more effective oversight and monitoring of AMOs, facilitating better risk management and safety assurance. 6. This Regulations will enhance confidence among stakeholders, including airlines, maintenance organizations, and the public, by demonstrating a commitment to safety and regulatory compliance. 7. Updated regulations will address new technologies, practices, and safety concerns, ensuring that the regulatory

Aviation Sector	Option one: Maintenance of the Status Quo	Option two: Administrative measures	Option three: Promulgating the Civil Aviation (AMO) Regulations 2024
		training and resources available to ensure that maintenance personnel understand and implement the guidelines correctly.	framework remains relevant and effective. 8. This Regulations will support the development of training programs for maintenance personnel, helping to ensure that they are well-equipped to meet regulatory standards.

4.4 Preferred Option

Based on the above analysis it is clear the third option the civil aviation (Airworthiness) Regulations 2024 is the preferred option. The benefits and impact of promulgating the civil aviation (Airworthiness) 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.

7.0 CHAPTER SEVEN – COMPLIANCE AND IMPLEMENTATION

As different aspects of the proposed Regulations are evaluated and analyzed, 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 been implementing the current Regulations for over six years now and has demonstrated capacity to implement the proposed Regulations and has indeed

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.

8.0 CHAPTER EIGHT – CONCLUSIONS & RECOMMENDATIONS

8.1 Conclusions

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

- a) Regulations making mandate: Section 82 of the Civil Aviation Act empowers the Cabinet Secretary in Consultation to give effect to and for the better carrying out of the objects and purposes of this Act, to provide generally for regulating air navigation, air transport, air accident investigation and carrying out and giving effect to any convention.
- b) 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:
 - i. a statement of the objectives of the proposed legislation and the reasons.
 - ii. a statement explaining the effect of the proposed legislation.
 - iii. a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options.
 - iv. an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
 - v. the reasons why the other means are not appropriate.
- c) 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 (AMO) Regulations have been (will be) fully adhered to.
- d) Other legal frameworks: The draft Civil Aviation (AMO) Regulations 2024 proposes to publish regulations in harmony with other civil aviation regulations to effectively govern the civil aviation system in Kenya.
- e) The draft: The draft Civil Aviation (AMO) 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 (AMO) Regulations 2024 be adopted.

8.3 Annexures

The Draft Civil Aviation (AMO) Regulations 2024
Matrix for stakeholder consultations

