Bill for Introduction into the National Assembly—

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THE CIVIL AVIATION (AMENDMENT) BILL, 2016

A Bill for

AN ACT of Parliament to amend the Civil Aviation Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Civil Aviation (Amendment) Act, 2016.

2. Section 2 of the Civil Aviation Act, 2013, in this Act referred to as the “principal Act” is amended—

(1) in subsection (1)—

(a) by deleting the definition of the word “Chicago Convention” and substituting therefor the following definition—

“Convention” means the Convention on International Civil Aviation, signed at Chicago on December 7, 1944 and includes—

(a) any amendment to the Convention which has entered into force under Article 94 (a) of the Convention and has been ratified by Kenya;

(b) any annex or amendment thereto accepted under Article 90 of the Convention; and

(c) the international standards and recommended practices from time to time accepted and amended by the International Civil Aviation Organization pursuant to Article 37 of the Convention.

(b) by deleting the definition of the words “inapropriate use” and substituting therefor the following definition—

“inappropriate use” means the use of aviation safety information for a different purpose other than the purpose for which it was collected, including use of information for disciplinary, civil, administrative and criminal
proceedings against operational personnel and disclosure of the information to the public;

(c) under the definition of the word “publication”—

(i) by deleting paragraph (e) and substituting therefor the following paragraph—

(e) aeronautical information circulars for aviation meteorology;

(ii) by deleting paragraph (f) and substituting therefor the following paragraph—

(f) manuals of procedures;

(iii) by deleting paragraph (g) and substituting therefor the following paragraph—

(g) advisory circulars and orders; and

(iv) by adding the following paragraph immediately after paragraph (g)—

(h) technical standards.

(d) by inserting the following new definitions in their proper alphabetical sequence—

“air navigation” means the process of planning and directing the progress of an aircraft between selected geographic points or over a selected route;

“air navigation facility” means any facility used, available for use or designed for use, in aid of air navigation and any other structure or mechanism having a similar purpose for guiding or controlling flight on the movement areas in the air, or the landing and take-off of an aircraft;

“aircraft piracy” means any actual or attempted seizure or exercise of control, of an aircraft within the jurisdiction of Kenya, by force, violence or by any other form of intimidation, with wrongful intent;

“Article 83 bis” means the provisions of Article 83 bis of the Convention on
International Civil Aviation, 1944 (Chicago Convention);

“Article 83 bis Agreement” means an agreement between two Contracting States that have ratified Article 83 bis, in terms of which the State of Registry transfers all or some of its functions and duties to the State of the Operator;

“aviation document” means any licence, permit, certificate including a medical certificate, or other document issued under this Act to or in respect of any person, aircraft, aerodrome, aeronautical procedure, aeronautical product, or aviation related service;

“civil aircraft” means aircraft other than State aircraft;

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

“dangerous goods” means goods capable of posing risk to health, safety or property when transported by air;

“domestic air transportation” means transportation by air carried out between places in Kenya;

“Kenya aircraft” means any aircraft registered in Kenya;

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

“foreign aircraft” means any aircraft not registered in Kenya;

“foreign air carrier” means an air carrier, not being a Kenyan air operator engaged in commercial air transport operations within the borders or airspace of Kenya;

“in-flight” means at any time from the moment when the external doors of an aircraft
are closed following embarkation until the moment when any such door is opened for disembarkation and in the case of forced landing, the flight shall be deemed to continue until the competent authorities take over responsibility for the aircraft and for the persons and property aboard;

“international air transportation” means transportation by air between a place in Kenya and a place outside thereof, or from and to a place in Kenya with a stopping outside thereof;

“order” means a written directive of the Authority issued under this Act or regulations issued hereunder;

“prohibited area” means an airspace of defined dimensions within which the flight of an aircraft is prohibited;

“restricted area” means an airspace of defined dimensions within which the flight of an aircraft is restricted in accordance with certain specified conditions;

“unmanned aerodrome” means any aerodrome where air traffic services are not provided;

“unmanned aerial vehicle” means a pilotless aircraft which is flown without a pilot-in-command on-board and is either remotely and fully controlled from another place (ground, another aircraft, space) or programmed and fully autonomous; and

“validation” means a written acceptance by the Director-General of an action of the civil aviation authority of another State in lieu of an action that this Act assigns to the Authority.

(2) by deleting subsection (3).

3. Section 3 of the principal Act, 2013, is amended—

(1) by deleting subsection (1) and substituting therefor the following subsection—
(1) The provisions of this Act or any Regulations made thereunder shall, except where expressly excluded, apply to—

(a) aerodromes used for civil aviation in Kenya;
(b) air services established or operating in Kenya;
(c) any aircraft registered by the Authority;
(d) any foreign aircraft within the Kenya territory;
(e) aviation personnel and training schools certified by the Authority;
(f) enterprises operating in Kenya in the design, manufacture, maintenance, repair and modification of aircraft and aircraft parts or components; and
(g) air navigation facilities and services in Kenya.

(2) by adding the following new subsection immediately after subsection (3) —

(4) Despite the provisions of subsection (1), the Authority may, by agreement made with the appropriate foreign civil aviation authority under the Chicago Convention—

(a) transfer to the concerned civil aviation authority of another State all or part of the Authority's responsibilities for a Kenya aircraft operated by a foreign operator; or

(b) vest in the Authority all or part of the responsibilities of the civil aviation authority of another State for an aircraft registered by that State and operated by a Kenyan operator.

4. Section 4 of the principal Act, 2013, is amended in subsection (3) by inserting the words “and security” immediately after the word “safety”.

5. Section 7 of the principal Act, 2013, is amended—

(a) in subsection (1) —
(i) by deleting paragraph (k);

(ii) by deleting paragraph (x) and substituting therefor the following paragraph—

(x) licensing, certification, registration and surveillance of aerodromes;

(iii) by inserting the following paragraphs immediately after paragraph (x)—

(y) certification and surveillance of air navigation service providers;

(z) licensing and certification of regulated agents;

(aa) implementing and enforcing the provisions of this Act, regulations and directives issued hereunder and treaties to which Kenya is a party;

(bb) taking measures to minimize, to the extent possible, any disturbance to the public and any adverse effect on the environment from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

(iv) by renumbering paragraphs (y),(z) and (aa) accordingly.

(b) in subsection (4), by inserting the words "and security" immediately after the words "aviation safety".

6. Section 10 of the principal Act, 2013, is amended in the marginal note by inserting the words "and security" immediately after the word "safety".

7. Section 13 of the principal Act, 2013, is amended—

(a) by deleting subsection (1) and substituting therefor the following subsection—

(1) There shall be a Board of Directors of the Authority which shall be the governing body of the Authority, consisting of—
(a) Chairperson, who shall be appointed by the President;

(b) the Director-General, appointed under section 19;

(c) the Principal Secretary of the Ministry for the time being responsible for matters relating to civil aviation or his representative;

(d) the Principal Secretary to the National Treasury or his representative;

(e) the Principal Secretary of the Ministry for the time being responsible for matters relating to internal security or his representative;

(f) four other persons, not being public officers, appointed by the Cabinet Secretary through a competitive process and who shall be independent upon appointment and maintain such independence during their term of service on the Board, and of whom—

(i) one shall have demonstrable knowledge and experience in the field of civil aviation;

(ii) one shall have qualification and expertise in financial management or accounting and is a bonafide member of a professional body regulating the accountancy or the auditing profession, and in compliance with the requirements thereof;

(iii) one shall have demonstrable knowledge and experience in aviation law or business; and

(iv) one shall have demonstrable knowledge and experience in management.

(b) by inserting the following new subsection immediately after subsection (1)—
(1A) For the purposes of subsection (1), a Board member shall be considered independent if he or she—

(a) is not in the Service of the national government or county government or of any statutory body or institution owned or controlled by the national government or county government and who is not connected or does not have any other relationship, whether pecuniary or otherwise, with the Authority;

(b) has not been employed by the Authority in an executive capacity within the last five (5) years;

(c) is not associated to an advisor or consultant to the Authority or a member of the Authority’s senior management or a significant customer, operator or supplier of the Authority;

(d) has no personal service contract with the Authority or a member of the Authority’s senior management;

(e) is not a member of the immediate family of any person described herein.

(c) in subsection (3), by deleting the expression “(1)(g)” and substituting the expression “(1)(f)”;

(d) in subsection (4)—

(i) by deleting the expression “(g)” and substituting therefor the expression “(f)”; and

(ii) by adding the words “subject to a favourable evaluation” at the end of the sentence.

(e) in subsection (5), by deleting the expression “(g)” and substituting the expression “(f)”.

8. The principal Act, 2013, is amended by inserting the following new section immediately after section 13—
Conflict of interest.

13A. (1) The Chairperson or a member of the Board, who has a direct or indirect personal interest in a matter being considered or to be considered by the Board, shall as soon as reasonably practicable after the relevant facts concerning the matter have come to their knowledge, disclose the nature of such interest.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting and the Chairperson or a member shall not take part in the consideration or discussion on or vote during any deliberations on the matter.

(3) A person who fails to make the requisite disclosure under this section commits an offence.

(4) A member of the Board shall excuse himself or herself from proceedings before the Board in which he or she has apparent or perceived conflict of interest.

9. Section 19 of the principal Act, 2013, is amended—

(a) in subsection (4), by deleting paragraph (c) and substituting therefor the following paragraph—

(c) possesses management and technical experience in the field of civil aviation of not less than ten years;

(b) in subsection (5), by deleting the expression “three” wherever it appears and substituting therefor the expression “four”.

10. Section 20 of the principal Act, 2013, is amended—

(a) in subsection (2)(f), by inserting the word “of” immediately after the word “purpose”; and

(b) by inserting the following new subsection immediately after subsection (2)—

(3) Without limiting the the powers of the Director-General as provided for under subsections (1) and (2) of this section, the Director-General—
(a) shall exercise the powers and duties of the Authority specified under section 7 of this Act;

(b) shall establish a safety oversight system which shall be implemented in accordance with—

(i) the provisions of this Act and Regulations made thereunder;

(ii) the State system and functions of the Authority;

(iii) technical guidance of qualified technical personnel, tools and provision of safety-critical information;

(iv) licensing, certification, authorization or approval obligations;

(v) surveillance obligations;

(vi) the resolution of safety concerns;

(c) shall search any aircraft for compliance with documents stipulated under the Chicago Convention;

(d) shall prohibit an aircraft from flying until an unsafe condition is rectified;

(e) shall prohibit a person from exercising the privileges of any aviation document;

(f) shall suspend, revoke or vary the privileges of any aviation document or any other authorisation issued by the Authority;

(g) shall impose operating restrictions and sanctions on the operators or holders of aviation documents in the event of non-compliances with approval, licensing and certification requirements or unresolved safety and security deficiencies or concerns;

(h) shall determine the technical and financial capability of a prospective operator to conduct the proposed operations;
(i) shall, where he or she believes on reasonable grounds that an unsafe condition exists in any aircraft or aeronautical product and may, by notice in writing, issue an airworthiness directive in respect of aircraft or aeronautical products, as the case may be, of that design; and

(j) may prohibit a foreign registered aircraft from flying if a major defect or damage is found whilst within Kenya.

11. Section 27(1) of the principal Act, 2013, is amended by deleting paragraph (f) and substituting therefor the following paragraph—

(f) money collected under the Air Passenger Service Charge Act, landing fees and from any other source.

12. Section 30(3) of the principal Act, 2013, is amended in paragraph (a) by adding the words “and security” at the end of the sentence.

13. The principal Act, 2013, is amended by inserting the following new sections immediately after section 35—

35A. There is established a Fund to be known as the Kenya Civil Aviation Authority Fund (hereinafter referred to as “the Fund”).

35B. There shall be paid into the Fund—

(a) a prescribed portion of the proceeds from the charge collected under the Air Passenger Service Charge Act;

(b) any monies appropriated by Parliament for the purposes of the Authority;

(c) the rates, charges, dues, or fees levied by the Authority under this Act;
(d) such sums as may be payable to the Authority pursuant to this Act or any other written law, or pursuant to any gift or trust; and

(e) all moneys from any other sources provided for or donated or lent to the Authority.

35C. There shall be paid out of the Fund any expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

14. The principal Act, 2013 is amended by repealing section 39 of the Act and replacing therefor the following section—

39. (1) The Director-General shall inspect—

(a) any aerodrome used for civil aviation operations; or

(b) any premises or facilities of a holder of aviation document issued by the Authority; or

(c) any Kenyan registered aircraft wherever it may be, for reasons of aviation safety and security, economic regulation, facilitation, aviation consumer protection or for any other reasons for which the Authority is established; or

(d) any aircraft and crew of any other state whilst in Kenya.

(2) In the performance of the functions under this section, the Director-General shall have unhindered access to aerodromes, premises of a holder of aviation document, any aircraft wherever it may be, any aviation facilities and installations, and to any records or related documents, information and explanation that may be required.
15. The principal Act, 2013, is amended by inserting the following new sections immediately after section 39—

39A. (1) The Director-General shall have power to carry out investigations into complaints, occurrences, save for accidents and serious incidents, after due notice to the person concerned.

(2) A complaint may be—

(a) filed with the Director-General by any person in writing; or

(b) initiated by the Director-General on any matter, with respect to an action committed or omitted by any person in contravention of any provision of this Act or its regulations for investigation and appropriate action.

(3) The Director-General shall have the same power to proceed with an investigation of a complaint instituted on the Director-General’s own initiative as though it had been made by another person.

(4) The Director-General shall, after investigations on a complaint filed by the person or initiated by him or her, and has established that there has been violation of the provisions of this Act or its Regulations, require a person in default to take corrective action to comply with, and prevent further violation of, the provisions of this Act and its Regulations.

(5) If the Director-General finds, after having required the person in default to take corrective action under subsection (4) of this section, such person has failed to take corrective action to comply with the provisions of this Act, the Director-General shall, consistent with the provisions of this Act and its Regulations, impose appropriate penalty or refer such violations to the Tribunal.
(6) The trial of any offence under this Act shall be by the Tribunal.

(7) Without prejudice to the provisions of subsection (1), the Director-General may investigate a holder of aviation document if he or she—

(a) believes, on reasonable grounds, that it is necessary in the interests of civil aviation safety and security;

(b) has reasonable grounds to believe that the holder has failed to comply with any conditions of an aviation document or with the requirements of this Act and Regulations made thereunder;

(c) considers that the privileges or duties for which the aviation document or any other authorisation has been granted are being carried out by the holder in a careless or incompetent manner;

(d) establishes that the aviation document was erroneously issued based on a mistake, misrepresentation, dishonesty or fraud; or

(e) considers it necessary to investigate for any other cause in the course of exercising his or her functions under this Act.

(8) If the Director-General is satisfied after such investigation that a person is violating any provisions of this Act, Regulations, Rules or Orders, as the case may be, he or she shall by order require that person to take such action consistent with the provision of this Act, Regulations, Rules or Orders as may be necessary in his or her opinion to prevent further violation of the provisions of this Act, Regulations, Rules or Orders.
(9) The Director-General shall have power to take all steps reasonably necessary, including issuance of infringement notice as provided for under the Second Schedule, ground any aircraft and to close the premises of any air transport service provider or provider of allied aviation service, in order to ensure compliance with the provisions of this Act, Regulations, Rules and Orders made thereunder.

(10) Where the Director-General issues an infringement notice under subsection (9), the notice shall state the particulars of the violation, the period within which to comply and the attendant penalty for the stated violation.

(11) A holder of an aviation document or any person aggrieved by any of the matters raised by the infringement notice issued by the Director-General shall have a right to appeal for review to the Director-General within twenty eight days from the time of issuance of the infringement notice.

(12) The Director-General may upon receipt of an appeal consider the grounds for review and may—

(a) confirm, set aside or vary the order or decision in question;

(b) exercise any of the powers which could have been exercised by the Authority in the proceedings in connection with which the appeal is brought; or

(c) make such other order as he may deem just and expedient.

(13) Any person aggrieved by the order of the Director-General under subsection (12) of this section may appeal to the Tribunal in accordance with the relevant provisions of this Act.
39B. (1) Any person having the requisite qualifications may file with the Authority an application for an aviation personnel certificate.

(2) Where the Authority finds, after investigation, that the applicant possesses the proper qualifications for, and is physically able to perform, the duties pertaining to the aviation personnel certificate sought, it shall issue such certificate.

(3) The Authority may consider prior issuance of an aviation personnel certificate by a foreign country that is a member of the International Civil Aviation Organization as satisfactory evidence, in whole or in part, that the applicant possesses the qualifications and physical ability to perform the duties pertaining to the aviation personnel certificate sought.

(4) The certificate may contain such terms and tests of physical fitness as the Authority may determine to be necessary to assure safety in civil aviation.

(5) The Authority may adopt rules to determine the categories and eligibility requirements of certificates to be issued to aviation personnel including personnel in charge of training and inspection of crew members or personnel engaged in the maintenance of aircraft, aircraft engines, propellers and appliances.

(6) The Authority may issue certificate of validation with respect to an aviation personnel certificate issued by another state.

(7) A holder of an aviation document or any person affected by this Act shall observe and comply with any rules, orders, directives, circulars, notices rule, regulation, licence or certificate issued under this Act.
39C. (1) The Authority shall provide such measures of assistance to aircraft in distress within Kenya as it may consider practicable.

(2) In the provision of the assistance referred in subsection (1), the Authority shall collaborate in coordinated measures which may be recommended from time to time in pursuance to the provisions of the Convention.

(3) The Authority may enter into mutual arrangements with other States in respect to the provision of the assistance and for coordination purposes mentioned in subsections (1) and (2) of this section.

(4) Subject to the control of the Kenyan authorities, the Authority shall permit the owners and operators of the aircraft or authorities of the State in which the Aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances.

39D. (1) The Authority shall—

(a) establish search and rescue units which shall render such assistance as may be required by any aircraft missing or in distress within the territory of Kenya;

(b) co-ordinate government offices and other organizations to pool resources and manpower for the conduct of aircraft search and rescue services.

(2) In the event the aircraft missing or in distress is registered in another state, the Authority may permit the owner of the aircraft or the authorities of such other state to provide such measures of assistance as may be required under the circumstances, provided that the furnishing of any such assistance shall, at all time, be under the control of the Authority.
(3) The Authority may consider requests by another state or international organization to render search and rescue assistance to aircraft missing or in distress in adjacent territories.

16. Section 43 of the principal Act, 2013, is amended—

(a) by deleting expression "(1)"; and

(b) by deleting paragraph (b) and substituting therefore the following new paragraph—

(b) no immovable or movable property of the Authority or any of its current assets or any vessels, vehicles, aircraft or its equivalent, machinery, fixture or fittings, shall be seized or taken by any person having by law, power to attach or distrain property without the previous written permission of the Director-General.

17. Part III of the principal Act, 2013, is amended in the heading by inserting the words "and security" immediately after the word "safety".

18. Section 46 of the principal Act, 2013 is amended—

(a) in the marginal note, by inserting the words "and security" immediately after the word "safety"; and

(b) in subsection (1)(a), by inserting the words "and security" immediately after the word "safety".

19. The principal Act, 2013, is amended by inserting the following new sections immediately after section 46—

46A. (1) No person shall fly an aircraft within the airspace of Kenya unless the following documents are carried on board—

(a) the certificate of registration;

(b) the certificate of airworthiness;

(c) the aviation personnel certificate of each flight crew member;
(d) the journey logbook;
(e) the aircraft radio license;
(f) the passengers list or the cargo manifest, if carried;
(g) the flight manual; and
(h) in case of commercial flight, the air operator certificate.

(2) Documents carried aboard an aircraft registered in another state shall be in conformity with the requirements of that state, but the Authority shall have the power to require the production of such documents for examination.

46B. (1) Any pilot-in-command of an aircraft flying over or maneuvering within the Kenyan airspace shall adhere to the air routes as established by the Authority and shall avoid those areas designated as prohibited, restricted or danger areas.

(2) Any aircraft deviating from an established air route or entering a prohibited, restricted or danger area shall be considered as unauthorized operation and pilot-in-command involved in such an unauthorized operation shall take immediate corrective measures to resume the authorized course and shall strictly comply with any special instructions of the competent authorities, including any instruction to land at a designated location.

20. The principal Act, 2013, is amended by repealing section 49 and replacing therefor the following new section—

49. (1) The Director-General may grant exemption or special authorisation on any civil aviation matter upon an application by a holder of aviation document or any authorisation, as the case may be, on such terms and conditions as may be necessary,
with respect to the application of any regulations made under this Act:

Provided that any such exemptions granted shall not compromise aviation safety and security standards and shall be in the interest of the public.

(2) Without limiting the provisions of subsection (1), exemptions shall be issued in accordance with the procedure for applications and approvals prescribed in the regulations.


22. Section 52 of the principal Act, 2013, is amended by renumbering paragraphs (e),(f) and (e) accordingly.

23. Section 55 of the principal Act is amended in subsection (4) by inserting the words “and security” immediately after the word “safety”.

24. The principal Act, 2013, is amended by inserting the following new section immediately after section 60—

60A. (1) Where an aircraft is flown from any unmanned aerodrome or point within Kenya to another unmanned aerodrome or point within Kenya, the Pilot-In-Command of such aircraft and the operator of such aerodrome shall be required to provide such information as the Authority may specify from time to time.

(2) The information under subsection (1) shall include details of the flight and the nature of the operations.

25. The principal Act, 2013, is amended by inserting the following new sections immediately after section 61—

61A. (1) A person shall not use weapon against civil aircraft in flight and in case of interception of civil aircraft in flight, lives of persons on board and safety of aircraft shall not be endangered.
(2) Without prejudice to the provisions of subsection (1), where an unauthorized civil aircraft is flown above the territory of Kenya, or if there are reasonable grounds to believe that the aircraft is being used for any purpose inconsistent with the provisions of this Act, or any convention to which Kenya is party to, the Authority may require the aircraft to—

(a) land at any airport within Kenya; or

(b) comply with any instruction given for the purpose of bringing to an end such violation,

and for this purpose, Kenya may result to an appropriate means consistent with relevant rules of international law, the provisions of this Act and the regulations made thereunder regarding interception of civil aircraft.

(3) Every aircraft irrespective of the State of registry shall comply with an order given in pursuance to this section and to the provisions of any regulations made thereunder to effect the provisions of this Section.

(4) Any person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to a term not exceeding three (3) years, or to both.

61B. (1) A person shall not commit or attempt to commit aircraft piracy, either while the aircraft is in flight or not in flight within the jurisdiction of Kenya.

(2) A person who contravenes this section commits an offence and shall be liable, upon conviction to a fine not exceeding five million shillings or to a term
of imprisonment not exceeding three (3) years, or to both.

61C. A person, who intentionally and willfully—

(a) interferes, or attempts to interfere with air navigation within the territory of Kenya;

(b) vandalizes navigation related equipment or system;

(c) produces, causes to be produced, exhibits or attempts to exhibit within the territory of Kenya—

(i) any light, signal, or communication at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this Act or regulations made thereunder; or

(ii) a false light, or signal in connection with an airport or other air navigation facility; or

(iii) such light, signal, or communication referred to under subparagraphs (i) and (ii) after due warning by the Director-General and continues to maintain any such misleading light, signal or communication;

(d) removes, extinguishes, or interferes or attempts to remove, extinguish or interfere with the operation of any such true light, signal or communication,

commits an offence and shall be liable upon conviction to a fine not exceeding two million shillings, or to a term of imprisonment not exceeding one year, or to both.
61D. A person who—

(a) delivers or transports, attempts to deliver or transport, or causes to be delivered or transported, cargo, baggage, or other property to an air operator for commercial air transport;

(b) offers or accepts, or attempts to offer or accept shipment of cargo, baggage or other property for civil air transport, whether originating or arriving in international flights to or from Kenya, or for flights within Kenya,

in contravention of the provisions of Annex 18 of the Convention commits an offence and shall be liable upon conviction, to a fine of not exceeding five million shillings or to a term of imprisonment for a period not exceeding three years, or both.

61E. A person who displays or causes to be displayed on any aircraft any marks or impressions that are false or misleading as to the nationality or registration of the aircraft commits an offence and shall be liable upon conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding six months, or to both.

61F. (1) A person shall not allow an aircraft capable of being flown without a pilot to be flown without a pilot over the territory of Kenya without special authorization by the Authority and in accordance with the terms of such authorization.

(2) When issuing a special authorization under subsection (1), the Authority shall ensure that the aircraft without a pilot is flown either—
(a) in controlled airspace as specified by the Authority; or

(b) if in airspaces open to civil aircraft, it is controlled so as to avoid endangering civil aircraft.

(3) The Civil Aviation (Rules of Air) Regulations shall be applicable to facilitate application and processing of the mandated requests for authorization under this section:

Provided that in all cases, regard is had on the safety of other airspace user, safety of persons and property on the ground.

(4) A person who contravenes the provisions of this section commits an offence under this Act or regulations made thereunder.

61G. No flight crew shall, when operating an aircraft registered in Kenya, carry radio transmitting apparatus, unless such flight crew holds a valid license to install and operate such apparatus issued by the Authority in accordance with regulations made under this Act.

61H. (1) The Authority shall issue rules of the air governing the maneuver of an aircraft in flight applicable within the territory of Kenya, provided that such rules shall to the extent possible, be consistent with those established, from time to time, under the Convention.

(2) No person shall, within the territory of Kenya, fly or maneuver an aircraft registered in Kenya wherever it may be, or an aircraft registered in another country, except in accordance with the rules and regulations relating to the flight and maneuver of aircraft issued under this section.

(3) Any pilot-in-command or co-pilot in charge of an aircraft shall be guilty of an
offence punishable under this Act or regulations made thereunder where he or she violates—

(a) the Kenyan rules of the air when flying any aircraft over or in Kenyan air space;

(b) rules of the air of a foreign state when flying an aircraft registered in Kenya over or in the airspace of that state; or

(c) such rules of the air as established under the Convention when flying an aircraft registered in Kenya over the airspace of the high seas.

(4) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding two million shillings or imprisonment for a term not exceeding one year, or to both.

61I. An air operator, approved training organisation, approved maintenance organisation or any other person or organization involved in civil aviation activities who intentionally and wilfully fails or refuses to—

(a) submit a report to the Director-General as required; or

(b) maintain accounts, records, files or any other document pertaining to the activities of its respective civil aviation activities,

commits an offence and shall, upon conviction, be liable to a fine not less than one million shillings or to a term of imprisonment not exceeding six months, or to both.

26. The principal Act, 2013, is amended by repealing section 66 and replacing therefor the following new section—

Repeal and replacement of section 66 of No. 21 of 2013.
66. (1) There is established a tribunal to be known as the National Civil Aviation Administrative Review Tribunal which shall consist of—

(a) the chairperson;

(b) a Deputy Registrar of the Judiciary; and

(c) four other persons with management and technical experience of not less than ten years in the field of civil aviation.

(2) Subject to subsection (3), the chairperson of the Tribunal shall be appointed by the Judicial Service Commission.

(3) The Cabinet Secretary shall through a competitive process, select three and eight suitable nominees for the positions of a chairperson and members respectively, and forward their names to the Judicial Service Commission for appointment.

(4) The Judicial Service Commission shall subsequently appoint one of the three and four of the eight nominees as selected under sub-section (3) as chairperson and members of the Tribunal.

(5) In nominating and appointing chairperson and members of a Tribunal under this section, the Cabinet Secretary and the Judicial Service Commission shall respectively take cognizance of the provisions of the Constitution relating regional and other diversities of the people of Kenya.

(6) The members of the Tribunal shall elect a vice-chairperson amongst themselves and the chairperson and the vice-chairperson shall be persons of the opposite gender.

(7) The Tribunal established under subsection (1) of this section shall be a subordinate court under the Judiciary as
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provided for in Article 169(1)(d) of the Constitution.

27. Section 81 of the principal Act, 2013, is amended by inserting the word “criminal” immediately after the words “compound any”.

28. Section 82 (2) (dd) of the principal Act, 2013 is amended—

(a) by inserting the words “catering operators” immediately after the words “regulated agents”; and

(b) by deleting the words “screening area” and substituting therefor the words “security operators”.

29. The principal Act, 2013, is amended by inserting the following new section immediately after section 83—

84. (1) Despite the repeal of sections 13(1) and 66—

(a) the former Board constituted under the repealed section 13(1) of the Act shall continue to exist until the Board is constituted under the section 13(1) of this Act;

(b) the former Tribunal constituted under the repealed section 66 of the Act shall continue to exist and continue to discharge its mandate until the Tribunal is constituted under the section 66 of this Act; and

(c) any matter pending before the constitution of the Tribunal under section 66 shall be continued or disposed of by the Tribunal as if instituted before the repeal of section 66.

(2) For the purposes of this section—

(a) former Board means the Board of Directors constituted under repealed section 13(1); and
(b) former Tribunal means the Tribunal constituted under repealed section 66.

30. The principal Act, 2013, is amended in the Second Schedule—

(a) by deleting the expression "(Section 39(3))" appearing immediately after the heading "SECOND SCHEDULE" and substituting therefor the expression "(Section 39A(9))"; and

(b) by deleting the word “offence” appearing in paragraph 4(1).
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Civil Aviation Act, 2013 to address the findings of the International Civil Aviation Organization audit (ICAO) and the Federal Aviation Administration (FAA) technical review for International Audit Safety Assessment Category I Status (IASA CAT 1) as well as incorporating Articles of the Chicago Convention that had not been captured in the Act.

Clause 1 of the Bill sets out the short title of the proposed Act.

Clause 2 of the Bill proposes to amend section 2 of the Act by redefining particular terminologies as a consequential amendments and inserting new definitions used in the Bill but not defined.

Clause 3 of the Bill proposes to amend the Act by repealing section 3(1) and replacing with a new section 3(1) expanding the application of the Act. The Clause further introduces a new subsection (4) to allow the Authority to enter into agreement with foreign civil aviation authority under the Chicago Convention to transfer all or part of its responsibilities to that foreign authority for Kenya aircraft operated by a foreigner or vest in the Authority all or part of the responsibilities of that foreign authority for an aircraft registered by foreign state and operated by Kenyan operator.

Clause 4 of the Bill further proposes to amend section 4(3) by expanding the management jurisdiction of the Authority to include aviation security in Kenya.

Clause 5 of the Bill proposes to amend section 7 of the Bill by expanding the functions of the Authority to include:

(a) the certification and surveillance of air navigation service providers; and,

(b) the licensing and certification of regulated agents;

(c) the implementation and enforcement of the provisions of the Act, regulations and directives issued under the act and treaties to which Kenya is a party;
(d) the taking of measures to minimize, to the extent possible, any disturbance to the public and any adverse effect on the environment from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

Clause 6 of the Bill proposes to amend the marginal note to section 10 to reflect the content in the section.

Clause 7 of the Bill contains proposals to amend section 13 by reconstituting the membership of the Board to provide for its independence in decision making.

Clause 8 of the Bill proposes to amend the Act by inserting a new section 13A to address the issue of conflict of interest among Board members when considering any issue within their mandate. In making sure that this provision is adhered to, the section criminalizes the failure to disclose in respect of that member.

Clause 9 of the Bill further proposes to amend section 19(4) of the Act by requiring a person wishing to be appointed the Director-General to possess, in addition to other qualifications, management and technical experience in the field of civil aviation of not less than ten years. The Clause also proposes to amend subsection (5) by extending the term of service for the Director-General from three to four years.

Clause 10 of the Bill proposes to amend section 20 of the Act by inserting a new subsection (3) to expand the powers to be exercised by the Director-General in the process of discharging his or her functions under the Act.

Clause 11 of the Bill proposes to amend section 27(1) of the Act by deleting paragraph (f) and substituting therefor a new paragraph to expressly provide for the money collected under the the Air Passenger Service Charge Act and landing fees as part of the funds for the Authority.

Clause 12 of the Bill proposes to amend section 30(3) of the Act by inserting the words and “and security” at the end of the sentence making security part of requisite standard in preparation of the business plan by the Authority.
Clause 13 of the Bill proposes to amend the Act by inserting the following new sections immediately after section 35 to provide as follows:

(a) Section 35A provides for the establishment the Kenya Civil Aviation Authority Fund;

(b) Section 35B states the sources of the funds to be paid into the Fund which are to consists of, inter alia:

(i) a prescribed portion of the proceeds from the charge collected under the Air Passenger Service Charge Act;

(ii) any monies appropriated by Parliament for the purposes of the Authority;

(iii) the rates, charges, dues, or fees levied by the Authority under this Act;

(iv) such sums as may be payable to the Authority pursuant to this Act or any other written law, or pursuant to any gift or trust;

(c) Section 35C allows for the expenditures of the Authority to be paid out of the Fund.

Clause 14 of the Bill proposes to amend the Act by repealing and replacing section 39 thus empowering the Director-General to have unhindered access in performance of his or her functions of inspecting any aircraft, aerodromes, premises and documents.

Clause 15 of the Bill proposes to amend the Act by inserting the following new sections immediately after section 39 to provide as follows:

(a) Section 39A empowers the Director-General to carry out investigations into complaints filed with him or her by any person in writing or initiated by the Director-General himself or herself;

(b) Section 39B allows any person having the requisite qualifications to file with the Authority an application for an aviation personnel certificate;

(c) Section 39C obligates the Authority to put in place measures of assistance to aircraft in distress within Kenya as it may consider practicable; and
(d) Section 39D further obligates the Authority to establish search and rescue under to be used to render assistance as may be required by any aircraft missing or in distress within the territory of Kenya.

Clause 16 of the Bill proposes to amend section 43 by deleting the expression "(1)" to correct an error.

Clause 17 of the Bill proposes to amend the Heading of Part III by inserting words "and security" immediately after the word "safety" to reflect the content in that Part.

Clause 18 of the Bill proposes to amend section 46 of the Act in the marginal note and subsection (1)(a) by inserting the words "and security" after the words "safety" to reflect the content in the section.

Clause 19 of the Bill proposes to amend the Act by inserting the following new sections immediately after section 46 to provide as follows:

(a) Section 46A provides for the documents required to be carried on board by a person flying within the airspace of Kenya. Such documents shall include:

(i) the certificate of registration;
(ii) the certificate of airworthiness;
(iii) the aviation personnel certificate of each flight crew member;
(iv) the journey logbook;
(v) the aircraft radio license; etc

(b) Section 46B proposes to prohibit any pilot-in-command of an aircraft from flying over areas designated as prohibited, restricted or danger areas by the Authority.

Clause 20 of the Bill proposes to amend the Act by repealing and replacing section 49 to enable the Director-General to grant exemption or special authorization on any civil aviation matter with respect to application of the Regulations made under the Act without compromising the aviation safety and security standards.
Clause 21 of the Bill proposes to amend the Act by repealing section 50 to address the problem of creating two centers of power performing the same function.

Clause 22 of the Bill further proposes to amend section 52 of the Act by renumbering paragraphs (e),(f) and (e) accordingly to correct an error.

Clause 23 of the Bill proposes to amend section 55(4) of the Act by inserting the words “and security” immediately after the word “safety” to create a link between matters of safety and security.

Clause 24 of the Bill further proposes to amend the Act by inserting a new section 60A immediately after section 60 to take care of an aircraft flown from any unmanned aerodrome or point within Kenya.

Clause 25 of the Bill proposes to amend the Act by inserting the following new sections immediately after section 61 to provide as follows:

(a) Section 61A proposes to prohibit the use of weapons against a civil aircraft in flight and in the case of interception, the lives of persons on board and safety of the aircraft must not be endangered;

(b) Section 61B proposes to criminalize an act of committing or attempting to commit aircraft piracy, either while the aircraft is in flight or not in flight within the jurisdiction of Kenya;

(c) Section 61C further proposes to criminalize any act of interference with air navigation or vandalization of navigation related equipment or system;

(d) Section 61D proposes to prohibit a person from transporting or accepting shipment of cargo or property for air transport if such an act is in contravention of the provisions of Annex 18 of the Convention;

(e) Section 61E contains proposals to criminalize false or misleading markings on any aircraft as to its nationality or registration;

(f) Section 61F proposes to prohibit a person from allowing an aircraft capable of being flown
without a pilot to be flown without a pilot over the territory of Kenya without special authorization by the Authority and in accordance with the terms of such authorization;

(g) Section 61G further proposes to prohibit any flight crew, when operating an aircraft registered in Kenya, from carrying radio transmitting apparatus, unless such flight crew holds a valid license to install and operate such apparatus issued by the Authority in accordance with regulations made under the Act;

(h) Section 61H proposes to criminalize an act of flying or maneuvering an aircraft registered in Kenya wherever it may be, or an aircraft registered in another country, if such an act is not in accordance with the rules and regulations relating to the flight and maneuver of aircraft issued under this section; and

(i) Section 61I proposes to criminalize the act of violating report and record keeping by a person or organization involved in civil aviation activities in Kenya.

Clause 26 of the Bill proposes to amend the Act by repealing and replacing section 66 to allow for the membership of technical persons to the Tribunal.

Clause 27 of the Bill proposes to amend section 81 of the Act by inserting the word “criminal” immediately after the words “compound any” for clarity.

Clause 28 of the Bill proposes to amend section 82(2)(dd) of the Act to expand the list of persons to be regulated to include catering operators and security operators.

Clause 29 of the Bill proposes to amend the Act by inserting a new section 84 to provide for transition and saving provisions to ensure continuity and smooth transition in terms of the Board and the Tribunal.

Clause 30 of the Bill proposes to amend the Second Schedule to the Act by deleting expression “39(3)” and replacing therefor the expression “39A(9)” being the correct reference in light of the proposed amendments and
deleting the word “offence” appearing in paragraph 4(1) which is misplaced.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments

The Bill does not concern County Governments in terms of Article 110 (1) (a) of the Constitution as it affects the functions and powers of National Government set out in the Fourth Schedule.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may not occasion additional expenditure of public funds to be provided for through the annual estimates.

Dated the 11th April, 2016.

ADEN DUALE, 
Leader of Majority.
Subsection (1) of section 2 of No. 21 of 2013 which it is intended to amend—

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on the 7th December, 1944;

"inappropriate use" means the use of safety information for purposes different from the purposes for which it was collected for;

"publication" includes information given in any of the following publications issued, whether before or after the commencement of this Act—

(e) aeronautical information circulars;

(f) manuals of air traffic control instructions; and

(g) such other official publications issued for the purpose of enabling any of the provisions of this Act or regulations made thereunder to be complied with;

Subsection (1) of section 3 of No. 21 of 2013 which it is intended to amend—

(1) The provisions of this Act or any regulations made thereunder shall, except where expressly or by implication excluded, apply to—

(a) all aircraft whilst in or over any part of Kenya;

(b) all Kenya aircraft and the crew and other persons on board wherever they may be; and

(c) all aerodromes and service providers within aerodromes.

Subsection (3) of section 4 of No. 21 of 2013 which it is intended to amend—

(3) The Authority shall be the state agency for the management of aviation safety in Kenya.

Subsection (1) of section 7 of No. 21 of 2013 which it is intended to amend—

(k) the establishment, co-ordination and maintenance of State Safety Security Programmes;
(x) licensing and certification of aerodromes, regulated agents and air navigation service providers;

Subsection (4) of section 7 of No. 21 of 2013 which it is intended to amend—

(4) The Authority shall be responsible for the performance of any obligations required by any agreement, treaty or arrangement between Kenya and any other country, inter-Governmental organisation or other body with respect to the safety, regularity and efficiency of air navigation and aviation safety in general.

The marginal note of section 10 of No. 21 of 2013 which it is intended to amend—

10. Aviation safety and security information obtained, gathered voluntarily or otherwise given to the Authority under this Act or regulations made thereunder shall not be put to any inappropriate use:

Provided that the Authority shall not be precluded from sharing aviation safety and security information with other Civil Aviation Authorities in the Contracting States subject to appropriate safeguards.

Subsection (1) of section 13 of No. 21 of 2013 which it is intended to amend—

13. (1) There shall be a Board of Directors of the Authority which shall be the governing body of the Authority consisting of—

(a) a Chairperson, who shall be appointed by the Cabinet Secretary through an open and competitive process;

(b) the Director-General, appointed under section 19;

(c) the Principal Secretary of the Ministry for the time being responsible for matters relating to civil aviation or his representative;

(d) the Principal Secretary to the National Treasury or his representative;

(e) the Principal Secretary of the Ministry for the time being responsible for matters relating to internal security or his representative;
(f) the Principal Secretary of the Ministry for the time being responsible for matters relating to tourism or his representative;

(g) five other persons, not being public officers, to be recruited through an open and competitive process and to be appointed from a list of at most three qualified persons by the Cabinet Secretary of whom—

(i) two shall have knowledge and experience either in aviation, air transport matters, piloting, aeronautical engineering or any other related field;

(ii) one shall have knowledge and experience in aviation law;

(iii) one shall have knowledge and experience in finance, economics, administration or any other related field; and

(iv) one shall be a holder of such other qualifications and experience of proven ability in such other fields as the Cabinet Secretary may deem necessary.

Subsection (3) of section 13 of No.21 of 2013 which it is intended to amend—

(3) A person shall not be appointed a member of the Board under subsection (1)(g) unless that person—

(a) is a citizen of Kenya;

(b) meets the requirements of Chapter Six of the Constitution; and

(c) does not hold a position or have such interests that are likely to place him in a position of conflict of interest or impose undue influence on the Authority or its employees in discharging its functions under this Act or regulations made thereunder.

Subsection (4) of section 13 of No.21 of 2013 which it is intended to amend—

(4) The members appointed under subsection (1)(a) and (g) shall serve for a period of three years on such terms
and conditions as may be specified in their instruments of appointment and shall be eligible for re-appointment for a further one term of three years.

Subsection (5) of section 13 of No.21 of 2013 which it is intended to amend—

(5) A member of the Board appointed under subsection (1) (a) and (g) shall cease to be a member of the Board if that member—

(a) dies;
(b) resigns; or
(c) assumes a political office or is found to have contravened the provisions of Chapter Six of the Constitution.

Subsection (4) of section 19 of No.21 of 2013 which it is intended to amend—

(4) A person shall not qualify for appointment as the Director-General under subsection (1) unless that person—

(c) has knowledge and experience in matters relating to civil aviation.

Subsection (5) of section 19 of No.21 of 2013 which it is intended to amend—

(5) The Director-General shall hold office for a term of three years from the date of appointment but shall, upon the recommendation of the Board, be eligible for re-appointment for one further term of three years.

Subsection (5) of section 20 of No.21 of 2013 which it is intended to amend—

(2) The Director-General shall exercise such powers as are necessary for the performance of the functions of the Authority to enable the objectives, implementation and applications of the regulations made under this Act and in particular, but without prejudice to the generality of the foregoing, the Director-General shall have power to—

(f) establish a school or schools for the purpose offering instruction and training in matters related to the aviation industry;
Subsection (1) of section 27 of No. 21 of 2013 which it is intended to amend—

(1) The funds of the Authority shall consist of—

(f) money from any other source.

Subsection (3)(a) of section 30 of No. 21 of 2013 which it is intended to amend—

(3) When preparing the business plan, the Authority shall consider—

(a) standards of aviation safety;

Section 39 of No. 21 of 2013 which it is intended to repeal—

39. (1) The Authority shall inspect any aerodrome used for civil aviation operations, premises of any regulated agent or premises of the holder of an air service license, certificate, authorisation or other approval document issued by the Authority or any aircraft on Kenyan territory regardless of their state of registry or Kenya registered aircraft wherever it may be for reasons of aviation safety, security, consumer protection and for any other reasons for which the Authority is established.

(2) The Authority’s inspectors shall have unhindered access to aerodromes, premises of any regulated agent or premises of the holder of air service license, certificate, authorisation or other approval document or aircraft wherever it may be and the related facilities and installations and to any records, information and explanation that may be required in the course of their inspections.

(3) The Authority’s inspectors shall, where they find that an aerodrome operator, regulated agent or a holder of air service licence, certificate, authorisation or approval document or an aircraft is in violation of this Act or regulations made hereunder, issue an infringement notice to such licence, certificate or authorisation holder as provided in the Second Schedule stating the particulars of the violation, the period within which to comply and the attendant penalty for the stated violation.

(4) A licence, certificate and authorisation holder, regulated agent or any person that may be aggrieved by any of the matters raised by the infringement notice issued by
the Authority’s inspector, such licence, certificate or authorisation holder, regulated agent or any person so aggrieved shall have a right to appeal to the Director-General within twenty-eight days from the time of issuance of the infringement notice.

(5) The Director-General upon receipt of an appeal may consider the grounds for appeal and—

(a) confirm, set aside or vary the order or decision in question;

(b) exercise any of the powers which could have been exercised by the Authority in the proceedings in connection with which the appeal is brought; or

(c) make such other order as he may deem just and expedient.

(6) Any person aggrieved by the order of the Director-General under subsection (5) may appeal to the Tribunal in accordance with the relevant provisions of this Act.

Section 43 of No.21 of 2013 which it is intended to amend—

43. (1) Despite anything to the contrary in any law—

(a) where any judgment or order has been obtained against the Authority, no execution or attachment or process in the nature thereof, shall be issued against the immovable property of the Authority or any of its vehicles, vessels, aircraft or its other operational equipment, machinery, fixtures or fittings, but the Director-General shall cause to be paid out of the revenue of the Authority such amount as may, by the judgment or order or decree, be awarded against the Authority to the person entitled thereto;

(b) no immovable property of the Authority or any of its vessels, vehicles, aircraft or its equipment, machinery, fixture or fittings, shall be seized or taken by any person having by law, power to attach or restrain property without the previous written permission of the Director-General.
Part III of No. 21 of 2013 which it is intended to amended—

PART III—SAFETY OF AIRCRAFT AND PERSONS ON BOARD

The marginal note and subsection (1) (a) of section 46 of No. 21 of 2013 which it is intended to amend—

46. (1) A person shall not willfully or negligently—

(a) imperil the safety of an aircraft or any person on board, whether by interference with any member of the crew of the aircraft or by tampering with the aircraft or its equipment, or by disorderly conduct or by any other means;

(b) cause or permit an aircraft to endanger any person or property;

(c) interfere or tamper with an air navigation facility.

Section 49 of No. 21 of 2013 which it is intended to repeal—

49. (1) The Authority may upon an application by an operator, a license or a certificate holder or a holder of any authorisation, as the case may be, on aviation safety or security matters, grant exemptions on such terms and conditions as may be necessary, with respect to the application of any regulations made under this Act provided that any such exemptions granted shall not compromise aviation safety and security standards.

(2) Exemptions granted under subsection (1) shall be in writing and shall specify the time when the aviation service provider is expected by the Authority to fully comply with the requirements of this Act and regulations made thereunder and the period within which the exemption shall cease to be effective provided that the duration of any such exemption shall not exceed six months.

(3) Despite the provisions of this Act, and in particular those relating to exemptions, the Cabinet Secretary may, by Gazette notice, set aside, vary or revoke an exemption issued by the Authority.

Section 50 of No. 21 of 2013 which it is intended to repeal—

50. Despite the provisions of this Act, the Cabinet Secretary may, upon the recommendation of the Authority, by way of a Gazette notice and on such terms and
conditions as may be necessary, exempt any aircraft, person, aerodrome facility or service or enterprise from the application of any regulations made under this Act, if such exemption is in the public interest and is not likely to adversely affect aviation safety and security.

Section 52 of No.21 of 2013 which it is intended to amend—

52. The Cabinet Secretary shall be responsible for—

(a) civil aviation policies;

(b) investigation of civil aircraft accidents and incidents for the sole purpose of prevention of further occurrence of similar accidents and incidents;

(e) establishment of incident reporting systems to facilitate collection of information on actual and potential safety deficiencies;

(f) establishment and review of air services agreement in an open and transparent manner;

(e) submission of variations to the Chicago Convention, any Annex to the Convention relating to international standards and recommended practices and any amendment thereto, or other international conventions and protocols, relating to civil aviation that Kenya is party to.

Subsection (4) of section 55 of No.21 of 2013 which it is intended to amended—

(4) The Cabinet Secretary may, on the advice of any audit inspector, take appropriate action to ensure that noted safety deficiencies are corrected and appropriate standards are maintained.

Section 66 of No.21 of 2013 which it is intended to repeal—

66. (1) There is established a tribunal to be known as the National Civil Aviation Administrative Review Tribunal which shall consist of—

(a) a Chairperson nominated through a competitive process by the Judicial Service Commission, who
shall be a person qualified for appointment as a Judge of the High Court of Kenya;

(b) an advocate of the High Court of Kenya nominated by the Law Society of Kenya through a competitive process with knowledge, experience and professional qualifications in aviation law;

(c) two persons to be recruited through a competitive recruitment process from the aviation industry who shall have knowledge and experience in aviation matters; and

(d) one other person recruited competitively and who shall be a holder of such other qualifications and experience of proven ability in such other fields as the Cabinet Secretary may deem necessary.

(2) All appointments to the Tribunal shall be done by the Cabinet Secretary by name and through a Gazette notice.

(3) The members of the Tribunal shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(4) In appointing members of the Tribunal, regard shall be taken to ensure that no more than two-thirds of the members of the Tribunal shall be of the same gender and that the chairperson and the vice-chairperson shall not be of the same gender.

Subsection (1) of section 81 of No.21 of 2013 which it is intended to amend—

(1) Any employee of the Authority authorised by name in that behalf by the Director-General, or any police officer not below the rank of the inspector, may compound any offence under this Act or Regulations.

Subsection (2)(dd) of section 82 of No.21 of 2013 which it is intended to amend—

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations—

(dd) regulating aviation security operations and providing for security audits and inspections, tests of aircraft, aerodromes, regulated agents and
any pre-flight and post flight passenger processing and screening area;

The Second Schedule to No. 21 of 2013 which it is intended to amend—

SECOND SCHEDULE

[Section 39(3).]

INFRINGEMENT NOTICES

Paragraph 4 (1) of the Second Schedule to No. 21 of 2013 which it is intended to amend—

4 (1) The Authority may issue infringement notice offences under this Act and regulations made thereunder from time to time.