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LAWS OF KENYA

KENYA AIRPORTS AUTHORITY ACT

CHAPTER 395

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NO. 3 OF 1991

KENYA AIRPORTS AUTHORITY ACT

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SCHEDULE –

AMENDMENT TO THE CIVIL AVIATION ACT
(CAP. 394)

NO. 3 OF 1991

KENYA AIRPORTS AUTHORITY ACT

[Date of assent: 23rd May, 1991.]

[Date of commencement: 31st May, 1991.]

An Act of Parliament to establish the Kenya Airports Authority, to provide for the powers and functions of the Authority and for connected purposes

[Act No. 3 of 1991, Act No. 8 of 2009, Act No. 18 of 2014, Act No. 18 of 2018.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Kenya Airports Authority Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**aerodrome**” means a defined area including any buildings, installations and equipment intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

“**Aerodrome Department**” means the Government Department responsible for planning, design, maintenance and operation of aerodromes in Kenya existing immediately prior to the coming into operation of this Act;

“**air navigation services**” means—

- (a) communication services, whether ground to air or ground to ground, provided for the safety of aircraft;
- (b) navigational services, that is to say radio, radar and visual aids to navigation;
- (c) air traffic services provided for the safety of aircraft; and
- (d) meteorological services provided for the safety of aircraft and for the regularity of flight;

“**apron**” means a defined area of land at an aerodrome intended to accommodate aircraft for purposes of loading or unloading passengers or cargo, refuelling, parking or maintenance of the aircraft;

“**Authority**” means the Kenya Airports Authority established under section 3;

“**authorized employee**” means an employee authorized by the managing director to exercise the powers or perform the duties and functions in respect of which the expression is used;

“**Board**” means the Board of Directors of the Authority constituted under section 5;

“**chairman**” means the chairman of the Authority appointed under section 5;

“**charges**” means all sums received or receivable, charged or chargeable under this Act or subsidiary legislation made thereunder for any service performed or facilities provided by the Authority;

“**customs law**” means any law in force imposing or relating to the collection of customs or excise duties;

“financial year” means the period of twelve months beginning on the first of July in every year;

“managing director” means the managing director appointed under section 6;

“Minister” means the Minister for the time being responsible for matters relating to aerodromes;

“operated by the Authority” means operated by the Authority in accordance with the provisions of this Act;

“premises occupied by the Authority” means premises vested in or placed at the disposal of the Authority for the purposes of the Authority;

“property of the Authority” means property vested in the Authority for the purposes of the Authority;

“rates” includes all sums which may, under the provisions of this Act, be levied for, or in respect of any aircraft or for any other service performed or facility provided by the Authority;

“the purposes of the Authority” means any purpose necessary or desirable for the performance of the services or the provision of any facilities which the Authority is authorized to perform or provide under this Act.

PART II – ESTABLISHMENT OF THE AUTHORITY

3. Establishment and incorporation of the Kenya Airports Authority

(1) There shall be established an Authority to be known as the Kenya Airports Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall have capacity in its corporate name to sue and be sued and to acquire, hold and dispose of movable and immovable property for the purposes of this Act.

4. Transfer of Government property to the Authority

(1) Subject to subsection (2), the Minister may, by order published in the *Gazette*, transfer to the Authority any property belonging to the Government which appears to him to be necessary or useful to the Authority for the performance of its functions under this Act, which property shall vest in the Authority by virtue of the order without further assurance.

(2) An order under subsection (1) may contain such incidental, consequential, or supplemental provisions as the Minister thinks necessary or expedient.

5. Board of Directors

- (1) There shall be a Board of Directors of the Authority which shall consist of—
- (a) a chairman who shall be appointed by the President;
 - (b) the managing director;
 - (c) the Permanent Secretary of the Ministry for the time being responsible for matters relating to the Authority or his representative;
 - (d) the Permanent Secretary to the Treasury or his representative;
 - (e) the Permanent Secretary of the Ministry for the time being responsible for transport and communications or his representative;

- (f) not more than five other members not being public officers or employees of the Authority, to be appointed by the Minister by virtue of their knowledge of civil aviation, aerodromes management and operation or of commerce, industry, finance or administration generally.

(2) The quorum at meetings of the Board shall be four members.

[Act No. 18 of 2014, Sch.]

6. Managing director

There shall be a managing director of the Authority who shall be appointed by the Minister after consultation with the Board and whose terms and conditions of service shall be determined by the Minister in the instrument of appointment or otherwise in writing from time to time.

7. Remuneration

The Authority shall pay to the directors such remuneration, fees or allowances for expenses as may be determined by the Minister after consultation with the Minister for the time being responsible for finance.

PART III – FUNCTIONS AND POWERS OF THE AUTHORITY

8. General duty of the Board

(1) It shall be the duty of the Board to—

- (a) provide by means of undertakings of the Authority, a co-ordinated system of aerodromes and facilities relating thereto;
- (b) administer, control and manage aerodromes and any other property vested in it under this Act;
- (c) provide, develop and maintain such services and facilities as are in its opinion necessary or desirable for the efficient operation of aircraft, excluding air navigational aids other than visual aids to navigation except with the consent of the Minister;
- (d) provide rescue and fire fighting equipment and services at aerodromes; and
- (e) approve the establishment of private airstrips and control the operations thereof.

(2) In the performance of its functions under subsection (1), the Board may—

- (a) construct, alter or maintain buildings at aerodromes or elsewhere;
- (b) value land and property for the purposes of the Authority;
- (c) purchase land or buildings;
- (d) grant on such terms and conditions as the Authority deems fit, authority to carry on any trade or business at aerodromes; and
- (e) carry on such activities as appear to it advantageous, necessary or desirable for or in connection with the exercise and performance of its functions.

(3) The performance of the duties referred to in subsection (1) shall include a general duty to ensure—

- (a) that the fullest development consistent with the economy of the undertaking of the Authority is attained;

- (b) that the undertakings of the Authority are operated efficiently, economically and with regard to safety;
- (c) that the Authority provides all reasonable facilities other than visual aids to navigation for the handling and operation of aircraft and their passengers; and
- (d) that no particular person or body is given undue preference or subjected to any undue disadvantage.

9. Management of the Authority

Subject to this Act, the control and executive management of the Authority shall vest in the managing director.

10. Powers of the Board

In exercise of its duty under section 8, and subject to any directions of a general nature which may be given by the Minister, the Board may—

- (a) determine the provisions to be made for capital and recurrent expenditure, reserves and dividends during each financial year;
- (b) approve any minor alterations in salaries, wages or other terms and conditions of service of employees;
- (c) approve any individual capital work for the purpose of the Authority, not included within the programme of works approved by the Minister, of which the estimated cost does not exceed ten million shillings or such other sum as the Minister may, from time to time, by order determine;
- (d) consider legislative proposals and recommend their enactment to the Minister;
- (e) approve any alteration in the establishment of the Authority involving a major reorganization or a substantial reduction in the number of employees; and
- (f) give directions to the managing director.

11. Powers of the Minister

The Minister may—

- (a) give directions of a general nature to the Board relating to the operation of the undertakings of the Authority;
- (b) approve any alterations in the tariffs, rates and other charges made for the services provided by the Authority;
- (c) approve alteration in salaries, wages or other terms and conditions of service of employees;
- (d) in consultation with the Minister responsible for finance, approve any individual capital work for the purposes of the Authority which the estimated cost exceeds ten million shillings; and
- (e) give directions to the Board concerning any matter involving an agreement with or the interest of any other country or territory.

12. Powers of the Authority

(1) The Authority shall have power—

- (a) to construct, operate and maintain aerodromes and other related facilities;

Kenya Airports Authority

- (b) to construct or maintain aerodromes on an agency basis on the request of any Government department; and
- (c) to provide such other amenities or facilities for passengers and other persons making use of the services or the facilities provided by the Authority as may appear to the Board necessary or desirable.

(2) Subject to this Act, the Authority shall, in addition to the powers specified in subsection (1), have such other powers as may be necessary for the performance of its functions under this Act.

(3) Without prejudice to the generality of subsections (1) and (2), the Authority shall have power to—

- (a) construct any other necessary or desirable works required for the purposes of the Authority;
- (b) control the construction and use of prescribed aerodromes;
- (c) carry on any business that may be necessary or desirable for the purposes of the Authority and act as agent for the Government in the provision of any agreed functions;
- (d) acquire, construct, manufacture, maintain or repair any works, plants or apparatus necessary or desirable for the purposes of the Authority;
- (e) determine, impose and levy rates, charges, dues or fees for any services performed by the Authority, or for use by any person of the facilities provided by the Authority, or for the grant to any person of a licence, permit or certificate, subject to the approval of the Minister;
- (f) prohibit, control or regulate—
 - (i) the use by any person of the services performed or the facilities provided by the Authority; or
 - (ii) the presence of any person, aircraft or goods within any prescribed aerodrome or any premises controlled or occupied by the Authority;
- (g) sell, let or otherwise dispose of any property, movable or immovable, which in the opinion of the Board is not necessary for the purposes of the Authority:

Provided that the Authority shall not sell, let or otherwise dispose of any building or land vested in it by virtue of section 4 except with the consent of and subject to any conditions imposed by the Government;

- (h) provide houses and other accommodation for its employees;
- (i) act as an agent for any person, agency or Ministry, whether within or outside Kenya, engaged in the performance of services or the provision of facilities of a kind similar or complementary to those performed or provided by the Authority;
- (j) enter into agreements with any person, agency or Ministry—
 - (i) for the supply, maintenance or repair of any property necessary or desirable for the purposes of the Authority;
 - (ii) for the performance or provision by that person, agency or Ministry of any of the services or facilities which may be performed or provided by the Authority; or
 - (iii) for the payment, collection or apportionment of any rates, charges or other receipts arising out of the performance or the

provision by that person, agency or Ministry of such services or facilities; and

- (k) hold shares in any corporation or establish or acquire any subsidiary corporation.

(4) The powers conferred on the Authority under this section to construct or improve any prescribed aerodrome shall include the construction or execution of any works necessary thereto on land vested in the Authority or on land transferred to it under section 4:

Provided that in the case of land not so vested or transferred to the Authority such construction or execution of works shall be carried out only with the consent of the owner of the land on which such works are to be constructed or executed.

(5) Where any land is required for the purposes of the Authority it shall be acquired in accordance with section 13.

13. Acquisition of land for purposes of the Authority

(1) Where land is required by the Authority for purposes of the Authority, it may either—

- (a) if such land is not public land, acquire such land through negotiation and agreement with the registered owner thereof:

Provided that notwithstanding the provisions of section 6 of the Land Control Act (Cap. 302), the ensuing transaction shall not require the consent of a land control board if the land to be acquired is agricultural land; or

- (b) if such land is public land or if the Authority is unable to acquire it by agreement in accordance with paragraph (a) notify the Minister responsible for public lands that the land specified in the notice is required for the purposes of the Authority.

(2) When notice has been given under subsection (1)(b), then—

- (a) if the land is public land, the Minister responsible for lands may, in his discretion and upon such terms and conditions as he may think fit, place such land at the disposal of the Authority to be utilised for the purposes of the Authority; or
- (b) if the land is not public land, any provision in any written law which empowers the President or the Minister responsible for lands to acquire or direct the acquisition of such land for any specific purpose shall be deemed to include a power enabling the President or the Minister responsible for Lands to acquire or direct the acquisition of such land for the purposes of the Authority.

(3) Where any compensation is payable to any person in respect of any land specified in the notice given under subsection (1)(b) acquired by the President or the Minister responsible for lands, and such land after being so acquired is placed at the disposal of the Authority in accordance with subsection (2)(a), the amount of compensation payable to that person, in accordance with the provisions of the law under which the land was acquired, shall be paid by the Authority.

(4) The Authority may at any time convey, transfer or surrender any land surplus to both its existing and future requirements by a conveyance or a deed of surrender either for, or without, consideration:

Provided that land which was public or trust land shall be surrendered to the Government and shall not be conveyed or transferred to any other person unless the Minister responsible for lands all consent and so direct.

(5) The provisions of subsection (4) shall apply to land vested in the Authority by any written law, including this Act, as well as land conveyed to it or otherwise placed at its disposal.

(6) In this section—

“**public land**” means all public land in Kenya excluding trust land, which is vested in the Government for public purposes or for the purposes of the Authority or its predecessors in title and for the purposes of the proviso to subsection (4) includes land previously so vested;

“**trust land**” means land which is vested in a county council by virtue of section 115 of the Constitution.

14. Powers to enter land to survey, etc.

(1) Any authorized employee of the Authority may, for the purposes of this Act, enter upon any land—

- (a) to survey such land or any portion thereof; or
- (b) to remove or cause to be removed any obstruction, materials, structures or buildings including slaughterhouses which are likely to attract birds that may be hazardous to aircraft operations.

(2) Any costs incurred by the Authority in pursuance of the provisions of subsection (1)(b) shall be wholly recoverable from the person responsible for such obstructions, materials, structures or buildings.

(3) Where any damage to land is occasioned by reason of the exercise of the powers conferred by subsection (1)(a), the owner or occupier of the land shall be entitled to compensation in accordance with this Act.

15. Power to enter land to prevent accidents, etc.

(1) Any authorized employee of the Authority may for the purposes of this Act, enter upon land and—

- (a) cut down or remove any tree or other obstruction, not being a building; or
- (b) execute such other works as may be necessary to prevent the occurrence of any accident or to repair any damage caused as a result of any accident.

(2) If any tree or other obstruction cut down or removed under subsection (1) (a) came into existence subsequent to the construction of any aerodromes or to the service being provided thereafter, no compensation shall be payable in respect of such entry or the cutting down or removal of such tree or other obstruction.

(3) Where any person erects any building which in any way interferes with the operation of any service provided by the Authority under this Act, the Authority may, unless such person has previously obtained the approval of the managing director to the erection of such building, or has modified it to the satisfaction of the managing director, apply to the High Court for an order for the demolition or modification of such building, or, as the case may require, for the payment to the Authority of the cost incurred in the resetting or replacement necessary to prevent such obstruction

or danger and the court at its discretion may grant such order as it may deem fit as to the payment of compensation and costs.

16. Power to enter and to alter position of pipes, etc.

(1) Subject to this section, the Authority or any authorized employee may, for the purposes of the Authority enter upon any land and alter the position of any pipe, electric, telephone or telegraphic wire.

(2) Where the Authority intends to exercise any power under subsection (1), it shall give reasonable notice of its intention so to do to the Authority or person having control over the pipe or wire and—

- (a) such Authority or person may authorize a representative to superintend such work and may require the Authority to execute such work to the satisfaction of that representative; and
- (b) the Authority shall make arrangements for the maintenance of the supply of gas, oil, water, compressed air, or electricity for the continuance of the drainage, as the case may be, during the execution of such work.

(3) Where any damage is caused by reason of the exercise of the powers conferred by this section, the person suffering such damage shall be entitled to compensation in accordance with this Act.

17. Power to take water

The Authority may, for its purposes, take water from any natural watercourse subject to the approval of the Minister responsible for water development and to any law regulating the taking of any such water.

17A. Establishment of Fund

There is established a Fund to be known as the Kenya Airports Authority Fund (hereinafter referred to as “the Fund”).

[Act No. 8 of 2009, s. 37.]

17B. Sources of Fund

There shall be paid into the Fund—

- (a) all proceeds from the charge collected under the Air Passenger Service Charge Act (Cap. 475);
- (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.

[Act No. 8 of 2009, s. 37.]

17C Payments out of the Fund

There shall be paid out of the Fund —

- (a) any expenditure incurred by the Authority in the exercise of its powers under this Act; and

- (b) monies for the expenditure of the Kenya Civil Aviation Authority in accordance with section 3(3) of the Air Passenger Service Charge Act.

[Act No. 8 of 2009, s. 37, Act No. 18 of 2014, Sch.]

PART IV – FINANCIAL PROVISIONS

18. Principles of operation

(1) It shall be the duty of the Authority to conduct its business in accordance with sound commercial principles.

(2) In the performance of its functions, the Authority shall ensure that taking one year with another, its gross revenue is not less than sufficient to meet those outgoings properly chargeable to its revenue and provision in respect of depreciation of capital assets, pension liabilities, interest and other provision for the repayment of loans.

(3) The Authority shall further ensure that taking one year with another, its net operating income is not less than that sufficient to secure an annual return on the value of the net fixed assets in operation by the Authority of such a percentage as the Minister may, from time to time, direct.

(4) For the purposes of subsection (3)—

- (a) “net operating income” shall be determined by subtracting from gross operating revenue all operating and administrative expenses including adequate provision for maintenance and depreciation but excluding interest and other charges on debt;
- (b) “value of the net fixed assets in operation” shall be the gross value of such assets less the amount of accumulated depreciation shown in the statement of accounts of the Authority:

Provided that if the amounts shown in such statements of accounts do not reflect a true measure of the value of the assets concerned because of currency revaluations, changes in prices or similar facts, the value of the fixed assets shall be adjusted adequately to reflect such currency revaluations, changes in prices or similar factors.

(5) In the exercise of its duty under subsections (1), (2) and (3), the Authority may, subject to any directions of a general nature which may be given to the Board by the Minister responsible for finance, invest moneys standing to the credit of the Authority in such securities as the Board thinks fit.

19. Borrowing powers

(1) The Authority may borrow money by the issue of loan stock on such terms as may be approved by the Minister responsible for finance.

(2) The Authority may borrow money or obtain credit in Kenya or abroad for its purposes with the concurrence of and subject to such limitations as may be imposed by the Minister responsible for finance.

(3) Such stock issued under subsection (1), and such monies borrowed or credit obtained under subsection (2), as the Minister responsible for finance shall approve for the purposes of this subsection, and all interest and other charges payable in respect of such stock, money or credit, shall, unless the instrument or note evidencing or supporting such borrowing shall otherwise provide, be charged upon all the property, undertaking and revenue of the Authority by operation of this section and without further charge or instrument.

(4) Any stock issued by the Aerodromes Department which, by virtue of an order made under subsection (3) of section 41, becomes the liability of the Authority shall, subject to the terms of such order, be deemed to be stock issued by the Authority and shall be held in the same right and on the same powers, privileges, provisions and charges as those in, on or subject to which such stock was issued.

(5) Except as provided in this section, the Authority shall not give or execute any mortgage or charge over any of its property by way of security for borrowed money.

PART V – ACCOUNTS AND REPORTS

20. Records and submission of accounts of the Authority

(1) It shall be the duty of the Board to ensure that proper accounts and other records are kept in respect of the revenue and expenditure of the Authority.

(2) The Board shall, not more than four months or such longer period as the National Assembly may by resolution appoint after the end of every financial year, cause to be prepared and submitted to the Auditor-General (Corporations)—

- (a) a balance sheet showing in detail the assets and liabilities of the Authority at the end of the financial year;
- (b) the trading and profit and loss accounts or statements of income where these are appropriate to the business or functions of the Authority; and
- (c) other statements or accounts as may be necessary to fully disclose the undertakings, assets, liabilities, trading profits or loss and discharge of the functions of the Authority.

(3) On receipt of the accounts specified under subsection (2) the Auditor-General (Corporations) shall cause them to be examined and audited and shall, within a period of seven months, or such longer period as the Minister may, after the end of the financial year to which the accounts relate, certify in respect of each account the result of the examination and audit and shall within that period prepare and submit to the Minister a report upon the examination and audit of all the accounts together with the certified copies of the accounts.

(4) The Minister shall, within fourteen days of receipt by him of a report under subsection (3), lay it before the National Assembly.

21. Annual report and financial year of the Authority

(1) The Board shall, within nine months after the end of each financial year prepare a report of the operation of the Authority during that year and shall transmit such report to the Minister who shall cause it to be presented to the National Assembly together with the report of the Auditor-General (Corporations) and certified copies of the accounts referred to in section 20.

(2) The financial year of the Authority shall be the period of twelve months ending on the 30th June in each year.

PART VI – OFFENCES AND PENALTIES

22. Major offences

Any person who unlawfully—

- (a) does any act which obstructs or is likely to obstruct the working of any equipment or vehicle of the Authority used in the operation of an aerodrome and which endangers or is likely to endanger the life of any person therein; or

- (b) damages or in any way interferes with any aerodrome facility or other property of the Authority in such a manner as to endanger the life of any person; or
- (c) discharges any firearm on the property of the Authority; or
- (d) does any act which obstructs or is likely to obstruct the operation of aircraft on any aerodrome or the use of any runway, taxiway, apron or landing strip therein,

shall be guilty of an offence and liable to imprisonment for a term not exceeding fourteen years.

23. Minor offences

Any person who—

- (a) not being specifically authorized in that behalf or an employee or agent of the Authority or passenger—
 - (i) is found during the hours of darkness on any premises occupied by the Authority; or
 - (ii) is found in any area designated by the Authority as dangerous by the erection of a notice to that effect; or
 - (iii) refuses to leave premises occupied by the Authority or any aircraft or vehicle thereof, after being lawfully ordered to do so by an employee or a police officer; or
- (b) being on any premises occupied by the Authority or vehicle of the Authority—
 - (i) refuses when called upon by an employee or a police officer to give his name and address or gives a false name or address with intent to avoid prosecution; or
 - (ii) is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of any other person; or
 - (iii) commits any act or otherwise does anything which may cause injury to any person on such premises or upon such aircraft or vehicle; or
 - (iv) commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language; or
 - (v) without lawful excuse contravenes any lawful direction given by any employees; or
 - (vi) except with the express permission of the managing director, hawks, sells or exposes for sale any article or goods or applies for or solicits custom of any manner or description; or
 - (vii) smokes in any part on such premises, aircraft or vehicle bearing a notice that smoking is not permitted; or
- (c) writes, draws or affixes any profane, obscene, indecent, or abusive words, matter, or representative character upon any premises occupied by the Authority or upon any aircraft or vehicle of the Authority; or
- (d) defaces the writing on any board or any notice authorized to be maintained upon any premises occupied by the Authority or upon any aircraft or vehicle of the Authority; or

- (e) damages, or without lawful excuse interferes with any property of the Authority; or
- (f) without lawful excuse does any act which obstructs or is likely to obstruct the free movement of vehicles on any aerodromes or the use of any road, parking area or related facility; or
- (g) without lawful excuse enters or alights from any vehicle of the Authority while in motion or in a place other than a place appointed by the Authority for passengers to enter or alight from a vehicle, or opens any outer door of any vehicle while it is in motion; or
- (h) being a driver or conductor of any vehicle, disobeys while upon premises occupied by the Authority any reasonable direction given to him by a police officer or, not being an employee disobeys any such direction given by an authorized employee; or
- (i) in the absence of a gate-keeper, omits to shut and fasten, if any form of fastener is provided, any gate on any aerodrome within premises belonging to the Authority, as soon as such person or any animal, vehicle or other thing under his charge has passed through such gate; or
- (j) fails to deliver at the earliest possible opportunity to an authorized employee any property which there is reason to believe has been lost, forgotten or found on any premises occupied by the Authority or any aircraft or vehicle of the Authority; or
- (k) wilfully obstructs or impedes an employee in the discharge of his duties; or
- (l) gives or offers to any employee any money or any thing of value for the purpose of avoiding payment of any sum due to the Authority; or
- (m) unlawfully removes any property of the Authority; or
- (n) being an employee of the Authority, receives from any passenger or from any other person delivering goods to the Authority for any of the purposes of the Authority or from any person making use of the facilities provided by the Authority, any amount of money, and who fails within a reasonable time, not exceeding half an hour, to issue a receipt in respect of such amount of money,

shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years or to both.

24. False returns

Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is required or authorized to be made for the purpose of the Authority under this Act, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

25. Employee endangering safety

Any employee who, while on duty endangers the safety of any person, aircraft or vehicle—

- (a) by contravening any of the provisions of this Act; or

- (b) by contravening any lawful order, direction or rule given to such employee or made in respect of his service; or
- (c) by being under the influence of alcohol or drugs; or
- (d) by any rash or negligent act,

shall be guilty of an offence and liable to imprisonment for a term not exceeding three years.

26. Employee demanding improper amount

Any employee who, with intent to defraud, demands, solicits or receives from any person making use of the facilities provided by the Authority, any greater or lesser amount than he should demand or receive, or any other thing of value shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

27. Arrest of employee

(1) Where the safe operation of any aerodrome or any service ancillary thereto, would be endangered by the immediate arrest, whether with or without a warrant or any employee thereof, the police officer whose duty is to make such arrest shall—

- (a) request the officer in charge of such aerodrome to relieve such employee from his duties as soon as practicable; and
- (b) refrain from arresting such employee until he is so relieved and take all necessary steps to ensure that such employee does not escape.

(2) Where any request is made to the officer in charge of an aerodrome under this section, it shall be his duty to relieve the employee in respect of whom the request is made with the least possible delay.

28. Powers of authorized employee

(1) Any person who commits any offence mentioned in section 23, 24 or 26 may be arrested without warrant by any authorized employee or police officer and shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or to commit him for trial.

(2) Any person who commits any offence against this Act, other than an offence mentioned in subsection (1), may be arrested without warrant by an authorized employee or a police officer if—

- (a) there is reason to believe that such person will abscond; or
- (b) he refuses on demand to give his name and address; or
- (c) there is reason to believe that the name or address given by him is incorrect,

and shall thereupon, with the least possible delay, be taken before a magistrate having jurisdiction to try him or commit him for trial.

(3) Any person who commits any of the offences set out in section 24 may be required by any authorized employee or police officer to leave the premises occupied by the Authority, as the case may be, in which such person is at the time of the commission of the offence and to remove any goods therefrom; and if such person fails to comply with such requirement he or such goods may be removed therefrom with force as may be reasonable necessary in the circumstances.

PART VII – MISCELLANEOUS PROVISIONS

*Staff***29. Appointment of staff**

(1) The Board shall, subject to this Act, have power to appoint on such terms and conditions of service as it may determine such employees as may be necessary for its efficient working, and the Board shall exercise disciplinary control over such employees.

(2) The managing director may, by notice in writing, authorize any employee appointed under this section to maintain order upon any premises occupied by the Authority, or in any aerodrome of the Authority, and any employee so authorized shall, in the performance of any such duty, have all the powers, rights and privileges of a police officer.

30. Property in custody of employee

(1) Where any employee dies or leaves the service of the Authority and at the time of such death or termination of service, any property of the Authority was in his possession or custody or any premises of the Authority were occupied by him, it shall be the duty of such employee or in the event of his death, of the person in whose possession such property may be or who may be occupying such premises, as soon as practicable to deliver such property to the Authority or to vacate such premises, as the case may be.

(2) If any property or premises to which subsection (1) applies is not delivered to the Authority or vacated, as the case may be, the managing director shall give notice in writing to the person appearing to him most likely to be in possession of the property or in occupation of the premises to deliver the property or vacate the premises of the Authority within such time as may be specified in the notice; and if the property is not delivered or the premises are not so vacated within that time, the managing director may, without prejudice to any other means of recovery, apply to a magistrate for an order empowering a police officer to enter and search any house or building where the property is believed to be and to deliver that property if found to the Authority or, as the case may require, to evict from the premises any person found therein.

31. Regulations relating to staff

Subject to this Act, the Minister may make regulations generally relating to the conditions of service of employees and without prejudice to the generality of the foregoing, may make regulations relating to—

- (a) the grant of pensions, gratuities and other retiring allowances to employees and their dependants and the grant of gratuities to the estate or dependants of deceased employees;
- (b) the establishment and maintenance of pension funds, superannuation and provident funds and the contributions payable thereto and the benefits receivable therefrom; or
- (c) the liability or otherwise to assignment attachment, sequestration or other levy of sums payable to an employee or other persons under regulations made under this section.

*Legal Provisions***32. Delegation and signification**

(1) The Board and the managing director may delegate, but not including this present power of delegation, to any person any of the powers vested in them under this Act and may grant to any person powers of attorney.

(2) Any act or decision, or notification thereof, of the Board or the managing director under this Act may be signified under the hand of an employee authorized for that purpose.

33. Compensation

(1) In the exercise of the powers conferred by sections 12, 14, 15 and 16, the Authority shall do as little damage as possible; and, where any person suffers damage no action or suit shall lie but he shall be entitled to such compensation therefor as may be agreed between him and the Authority or, in default of agreement, as may be determined by a single arbitrator appointed by the Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013 (No. 26 of 2013).

(2) Nothing in this section shall be construed as entitling any person to compensation—

- (a) for any damage suffered unless he would have been entitled thereto otherwise than under this section; or
- (b) for any damage suffered as a result of the user of any works authorized under this Act unless such damage results from negligence in such user.

[Act No. 18 of 2018, Sch.]

34. Limitation

Where any action or other legal proceeding is commenced against the Authority for any act done in pursuance or execution, or intended execution of this Act or of any public duty or authority, or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the following provisions shall have effect—

- (a) the action or legal proceedings shall not be commenced against the Authority until at least one month after written notice containing the particulars of the claim, and of intention to commence the action or legal proceedings, has been served upon the managing director by the plaintiff or his agent;
- (b) the action or legal proceedings shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default complained of or in the case of continuing injury or damage, within six months next after the cessation thereof.

35. Restriction in execution against property of Authority

Notwithstanding 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 operating equipment, machinery, fixtures or fittings; but the managing director shall cause to be paid out

of the revenue of the Authority such amount as may, by the judgment or order, be awarded against the Authority to the person entitled thereto;

- (b) no immovable property of the Authority or any of its vehicles, vessels, aircrafts or its other operating equipment, machinery, fixtures 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 managing director.

36. Medical examination of person claiming compensation

Whenever any person claims compensation against the Authority in respect of any injury alleged to be suffered by him as a result of the operations of the Authority, any court or person having by law, or consent of the parties, authority to determine the claim may order that the person injured be examined by a medical practitioner named in the order and may also make such order with respect to the cost of the examination as may be thought fit.

37. Service of notice, etc., on the managing director

Any notice or other document required or authorized under this Act to be served on the Authority or the managing director may be served—

- (a) by delivery of the notice or document to the managing director or to any authorized employee; or
- (b) by leaving it at the office of the managing director; or
- (c) by sending it by registered post to the managing director.

38. Service of notice by the managing director

Any notice or other document required or authorized under this Act to be served on any person by the Authority or the managing director or any employee may be served—

- (a) by delivering it to that person; or
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it by post addressed to that person at his usual last known address.

Regulations

39. Regulations

(1) The Minister may make regulations generally with respect to the services provided and the functions performed by the Authority and, without prejudice to the generality of the foregoing, with respect to—

- (a) the safety of aircraft, vehicles and persons using any such aerodrome and preventing danger to the public arising from the use and operation of the aerodrome;
- (b) preventing or minimizing obstruction within the aerodrome;
- (c) the preservation of order within aerodrome and preventing damage to property therein;
- (d) the regulation or restriction of advertising within the aerodrome;
- (e) the regulation, promotion or restriction of movement of persons entering or leaving an aerodrome;

- (f) the prohibition or regulation, in relation to the whole or any part of an aerodrome of—
 - (i) the presence of persons or classes of persons;
 - (ii) the presence of animals or classes of animals;
 - (iii) the use of vehicles of any class or description; and
 - (iv) the doing of acts which might endanger any property or person;
- (g) the regulation of vehicular traffic within an aerodrome and in particular, the imposition of speed limits on vehicles therein;
- (h) the appointment and regulation of the conditions for use, of parking places for motor vehicles within an aerodrome;
- (i) the prescription and regulation of the conditions for use of an aerodrome and its facilities including the charges to be made for the use of the aerodrome and for services or facilities provided therein;
- (j) the disposition of unclaimed property in the custody of the Authority; and
- (k) security arrangements.

(2) Regulations made under this section in relation to the use of roads in an aerodrome shall take effect notwithstanding the provisions of the Traffic Act (Cap. 403) and any rules made thereunder.

PART VIII – TRANSITIONAL, SAVING, ETC.

40. Transitional and saving provisions

(1) Every contract made by or on behalf of the Aerodromes Department which at the commencement of this Act falls wholly to be performed within Kenya shall, whether or not in writing and whether or not otherwise assignable in law by either party, have effect on and after the commencement of this Act as if made by or on behalf of the Authority with the other party or parties thereto and as if references therein to the Aerodromes Department or any employee or authority were references to the Authority or the corresponding employee or authority of the Authority.

(2) All the liabilities of the Aerodromes Department which at the commencement of this Act fall to be discharged within Kenya shall thereupon by virtue of this section and without further assignment become the liabilities of the Authority.

(3) The Minister may, from time to time, after the commencement of this Act by order declare that any property of the Aerodrome Department or any liabilities or contracts of that department to which subsections (1) and (2) do not apply, or any part or proportion thereof, shall, on a day to be specified in the order, become property, liabilities or contracts of the Authority subject to such terms or provisions as may be specified in the order, and all such orders shall take effect in Kenya according to their terms.

(4) All legal proceedings in Kenya by or against the Aerodromes Department in respect of any property, liabilities or contracts of the Authority under this section shall be deemed to continue or be continued by or against the Authority.

(5) All directions, orders, rules, authorizations and other things published, made, given or done by the Aerodromes Department, or any subsidiary legislation thereunder subsisting at the commencement of this Act, shall be deemed to have been published, given, made or done by the Authority.

(6) Every public officer having the power or duty to effect or amend any entry in a register relating to property, or to issue or amend any certificate or other charge and upon request made by or on behalf of the Authority shall do all such things as are by law necessary to give final effect to the transfer of property mentioned in any order made under subsection (3).

(7) In this section liabilities and contracts which fall to be discharged or performed shall include liabilities and contracts in respect of—

- (a) goods or services received and utilized or due to be received and utilized in Kenya by the Aerodromes Department;
- (b) a cause of action in tort which arose in Kenya;
- (c) only such judgments obtained in Kenya before the commencement of this Act as arise out of liabilities or contracts within subsections (1) and (2).

(8) Notwithstanding anything in this section or in any written law, it shall be lawful for the Authority pending the vesting of any property by orders made under subsection (3) to manage, operate, use and deal with the property of the Aerodromes Department for any of the purposes of the Authority and as if the provisions of this Act applied thereto, but subject to such provisions with regard to that user, including provisions for any financial adjustments or arrangements as the Minister may from time to time direct; and the Authority shall have the power, subject to any such direction of the Minister, to have recourse to any such property and income arising therefrom for the purpose of meeting any liabilities or obligation of the Authority or of the Aerodromes Department, whether or not liabilities or obligations assumed by the Authority under this section.

41. Contracts, etc., on behalf of Authority before commencement of this Act

(1) Any contract made and any act or thing done or purported to be made or done or any act or thing omitted to be done on behalf of or in the name of the Aerodromes Department prior to the incorporation of the Authority under this Act by any person acting in good faith and with due or apparent authority in that behalf shall be deemed to be a contract, act or thing made or act or thing omitted to be done, as the case may be, by the Authority.

(2) The periods of limitation set out in section 35 shall, in respect of any claim, action or legal proceedings arising out of any of the matters covered by subsection (1), commence from the date of the commencement of this Act.

42. Recovery of debts

All debts owed to the Authority under this Act shall be recoverable summarily.

43. Amendment of Cap. 394

The provisions of the Civil Aviation Act (Cap. 394) specified in the first column of the Schedule are amended in the manner specified in relation thereto in the second column.

SCHEDULE

[Section 43.]

AMENDMENT TO THE CIVIL AVIATION ACT (CAP. 394)

Provision	<i>Amendment</i>
S. 4 (3)	Insert the following immediately after the word “Minister” — “ for the time being responsible for matters relating to aerodromes”.
S. 7 (2)	Delete paragraph (u).
S. 8 .	Delete the entire section.
S. 9 (1)	Insert the following immediately after the word “Minister” — “ for the time being responsible for matters relating to aerodromes”.
S. 10 (1)	Insert the following immediately after the words “he may” — “ after consultation with the managing director of the Kenya Airports Authority,”.
S. 11	Delete the entire section.
S. 13	Delete the entire section.
