
APPENDIX 35

GUIDELINES ON CONDUCT OF BACKGROUND CHECKS

- 1) A background check to confirm a person's identity and previous work experience, including criminal history shall be carried out as part of the assessment of the individual's suitability for employment in aviation security functions and for unescorted access to airside and security restricted areas. Background checks shall be updated every two years to ensure that the individual still meets the required criteria. Background checks shall be updated every time airport security identification permits are renewed.
- 2) Any person aggrieved by the negative results of a background check shall have the right to appeal the decision about his/her suitability to enter a security restricted area without escort to the National Civil Aviation Administrative Review Tribunal provided for in the Civil Aviation Act 2013 as amended by the Civil Aviation (Amendment) Act, 2016.
- 3) Criteria for background checks shall include verification of an applicant's:-
 - (a) identity, by means of a passport or national identity card, driving licence or the records of registry of birth, Personal Identification Number (PIN) certificate;
 - (b) trustworthiness and capacity to work unescorted within a security restricted area, by means of a check of criminal history and, depending on the specific function to be performed, other personal circumstances or behaviour that could forewarn of danger; and
 - (c) place of residence during the previous five years and the dates, names, telephone numbers and addresses of previous employers or schools attended during this period, with explanations for any gaps in employment of more than one month.
- 4) Provisions regarding foreign nationals and national citizens that have lived abroad requesting issuance of an identification permit to access security restricted areas shall be established, in order to ensure that applicants have not been convicted of a disqualifying offence in their State of origin.
- 5) Background checks may only review lawfully accessible information. Furthermore, prior to conducting a background check, written consent shall be obtained from the permit applicant. At the same time, it shall be made clear to the applicant that failure to give consent to a background check will result in rejection of the application.
- 6) All companies and organizations at an airport shall vouch for the valid requirement for each permit prior to its issuance to an employee. It is the employer's responsibility to complete adequate pre-employment checks or other

inquiries to ensure that the individual concerned does not pose a potential threat to the airport. Permits shall not be issued without such guarantees.

- 7) On receipt of a valid application, relevant law enforcement agencies shall conduct a background check. Such agencies shall have the authority to object, on reasonable grounds, to the issuance of a permit.
- 8) A permit shall not be issued if, during the performance of a background check, it is determined that the applicant was convicted of:-
 - (a) certain crimes, specifically possession or use of illicit drugs, trafficking in illicit drugs, trafficking in weapons or illegal possession of weapons, aggravated assault, extortion, acts endangering public safety including acts of unlawful interference against civil aviation, sexually-related offences or membership in a criminal organization; and
 - (b) other relevant offences such as burglary, dealing of stolen goods, embezzlement, fraud and fraudulent misrepresentation, without making restitution.
- 9) Applicants for jobs implementing security controls shall undergo a supplementary check to confirm that they are not associated with a terrorist organization. Generally, these duties involve controlling access to and searching security restricted areas and aircraft, issuing identification permits to persons or for vehicles, or managing any persons performing these functions.

Gaps in history

- 10) Gaps in an applicant's personal or employment history are not acceptable except for the usual time allowed for holidays, about one month per year. However, when it is not possible to check the continuous criminal history or experience of an applicant over the defined period, verification of the person's suitability to hold a permit shall be sought from alternative sources, such as former employers located abroad or, for a self-employed applicant, Kenya Revenue Authority or other relevant government authorities.
- 11) Responsibility for issuing a permit remains with the airports operator and due care and discretion shall be exercised in examining information. Before issuing a permit, the airport operator shall be fully satisfied of the applicant's suitability as a holder.
- 12) After making every effort to obtain information, if the applicant's identity and previous experience, including criminal history, cannot be verified, the individual shall be regarded as unsuitable for a permit.

Instructions on background checks and a Background Check Form are provided in Annex 1 to this Appendix

Annex 1 INSTRUCTIONS ON BACKGROUND CHECKS AND A BACKGROUND CHECK FORM

Read the guidelines and instructions below carefully before completing the background check form(s).

1. Definition of Background Check:

Annex 17 to the Chicago Convention and the Civil Aviation (Security) Regulations 2020 define 'Background Check' as "a check of a person's identity and previous experience, including criminal history and any other security related information relevant for assessing the person's suitability, in accordance with national legislation."

2. Requirements for Background Checks

Standards 3.4.1 and 4.2.4 of Annex 17 to the Chicago Convention and Regulations 13(3)(d)(e)(f)&(h), 14(3)(d)(e)(xv-xvii), 15(2)(e)(vii-ix), 16(2)(d)(vi-viii), 17(2)(f)(iii), 25(2)(b)(iv) & (d), 39(3)(e)&(f), 46(b)&(d), 48(1)(i)&(k), 50(3)(e-h), 51(3)(f-h) and 65(3) of the Civil Aviation (Security) Regulations, 2020 provide for the requirements for background checks for aviation personnel.

3. Applicability of Background Checks

Background checks shall apply to:-

- (a) All personnel who oversight and those who implement security controls within the civil aviation industry (i.e. all aviation security personnel);
- (b) All personnel who require unescorted access to a security restricted area within civil aviation (i.e. all permanent airport pass holders and personnel employed/operating at aviation-related security restricted areas located off-airport); and
- (c) All personnel who routinely access or handle sensitive aviation security information.

4. Initial Background Checks

- (a) These shall apply to candidates being hired into the civil aviation industry and/or those switching employers within the industry.
- (b) These are to be conducted during the recruitment process and apply to all aviation security personnel and all other persons stipulated in section 3 above.

5. Recurrent Background Checks

- (a) These shall apply to personnel already employed within civil aviation.
- (b) Pursuant to the provisions of the Civil Aviation (Security) Regulations, 2020, all Aviation security personnel (persons who implement security controls) are required to undergo recurrent background checks every two years. All other persons with unescorted access to the airports' security restricted areas (airport pass holders), are also required to undergo recurrent background checks every two years.

6. Background Check Form

- (a) The background check form shall incorporate the necessary areas of a candidate's personal details and history that would require verification during the recruitment process and on a recurrent basis during an employee's tenure at an organization.
- (b) The attached AVSEC Form-020B has been designed to facilitate the conduct of background checks. The Form shall be used on existing employees within the organization (for initial and recurrent background checks).
- (c) The form also provides for a section for a candidate to make declarations and admissions related to the information completed on the form and another section where the employer's representative (e.g. Human Resource) can verify/check on the authenticity of the information provided by the candidate.

7. Completion of the Form and Attachments

- (a) The form should be completed in clear, bold and legible hand-writing. It may also be completed in softcopy and printed;
- (b) Where it is necessary to write on additional papers, such papers shall be appended to the form;
- (c) Copies of testimonials may also be attached to the form as applicable;
- (d) Candidates or employees may be required to provide day-time telephone and email contacts of the persons and establishments provided in the respective areas to necessitate the conduct of the checks as required;
- (e) The completed form (for successful applicants and for existing employees), shall be kept in their respective personnel files for as long as the candidate remains employed by the organization and made only accessible to authorized persons.

8. Updates to the Form

- (a) The form shall be updated by the Authority (KCAA) when deemed necessary based on need or new requirements. The form may be customized and additional content may be added by the employer in consultation with the Authority;
- (b) For employees who will undergo recurrent background checks every two years as stipulated in section 5 above, a fresh form with any new or updated content shall be filled. HR or authorized persons shall perform checks only on the new/updated details or unaccounted for activities/periods involving the candidate if the candidate has remained in the company's employ since the conduct of the last check.

9. Failure to Implement Background Checks

Regulation 65(3) of the Civil Aviation (Security) Regulations 2020, provides that, "an operator or organization who utilizes the services of an aviation security officer without conducting necessary background checks or requiring a valid police clearance certificate, commits an offence, and shall be liable, upon conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding six months, or to both."

BACKGROUND CHECK FORM

Candidate's Job Title:		Affix Recent Photo Here
Employer:		

I. PERSONAL DETAILS:

Surname:		Other Names:			
Gender:		Date of Birth:		ID/Passport / Driving License No:	
Nationality:		Religion:			
Marital status: <i>(Tick as appropriate)</i>	Single	Married	Divorced	Separated	Other
Postal address:				Town/County:	
Email address:				Mobile:	
Current Residential address	Estate & Town:		Plot No:		
	House/Flat No:		Road/Street:		
Previous residential address	Estate & Town:		Plot No:		
	House/Flat No:		Road/Street:		
Previous residential address	Estate & Town:		Plot No:		
	House/Flat No:		Road/Street:		

Provide residential addresses for at least the past five years

2. EDUCATIONAL BACKGROUND:

Start with the most recent/current, then all preceding training as applicable (in a chronological manner)

Period	Place/Institution	Course	Institution's Telephone No.	Address	Award received

(Write on additional sheets where necessary)

3. PROFESSIONAL / TECHNICAL QUALIFICATIONS

Start with the most recent/current, then all preceding training as applicable (in a chronological manner).
If not applicable (incase of fresh graduate), please draw a diagonal line across the table and write "Not Applicable"

Period	Place/Institution	Course	Institution's Tel. No.	Address	Award received

(Write on additional sheets where necessary)

4. EMPLOYMENT RECORD

Start with the most recent/current employment, then all preceding employments as applicable (in a chronological manner).
If not applicable (incase of fresh graduate), please draw a diagonal line across the table and write "Not Applicable"

a)

Year / Period	Employer	Telephone	Address	Position Held	Duration

(Write on additional sheets where necessary)

b) If you were previously employed before the current position, state the reason(s) for leaving such previous employment(s) or engagement(s)

No.	Employer	Reason for leaving

5. CRIMINAL RECORD AND CONDUCT

- a) Have you ever participated in or been convicted of any crime? **YES** **NO** (Tick as appropriate)

If YES, please give details of any criminal convictions preferred against you under the Laws of Kenya or other laws of any other State:

Date of Conviction	Nature of Crime	Judgment/Sentence

- b) Have you ever been dismissed from any previous employment for violating your employer's rules and regulations or for any misconduct? **YES** **NO** (Tick as appropriate)

If YES, give details:

- c) Have you ever been involved with any outlawed, criminal or terrorist group(s) and/or participated in any of their activities whether directly or indirectly? **YES** **NO** (Tick as appropriate)

If YES, give details:

- d) Have there been periods in your recent past (3 years) when you were not engaged in any training (school/college), job or employment activity? **YES** **NO** (Tick as appropriate)

If YES, give details:

6. REFEREES

Please provide following details of persons of credible character not related to you by blood and who know you personally or professionally, e.g. former/current colleagues, friends, religious leaders, college/school teachers/heads, local administration).

(Provide a minimum of three and a maximum of five referees).

No.	Name	Profession	Address	Town	Telephone

7. DECLARATIONS

I, the undersigned, do hereby declare:

- a) that the information given in this form is correct to the best of my knowledge and belief;
- b) that any misrepresentations of the facts be treated as grounds for termination of employment, disciplinary proceedings and/or criminal charges being preferred against me;
- c) that I understand and will cooperate with persons evaluating my qualifications and/or records in case more information is required or when approaching my referees, former employer(s), educational establishments, government agencies and personal referees or colleagues for verification of any information provided herein;
- d) that my authorization is hereby granted for further verification of any information given herein.

Candidate's Signature: Date:

8. VERIFICATION OF CANDIDATE'S DETAILS

This section is to be completed by HR or authorized officer(s) conducting assessment on the candidate/employee.

This is to confirm that the following checks have been carried out on the applicant from his/her referees, educational institutions, local administration, former employers, police records, documents attached to application, immigration records (for foreigners), etc. as appropriate. Written verifications through completed forms/questionnaires and/or emails shall be preferred over verbal ones. An indemnity from the employer indicating that the above information has been verified may be sufficient

No.	Area of Verification	Verified by	Date of Verification	Remarks/Outcome
1	Personal details & Referees			
2	Educational background			
3	Professional details			
4	Employment history			
5	Criminal record and conduct			<i>Check availability and validity of Police Clearance Certificate</i>
6	Social Media / On-line activity checks (if possible)			
Approved by:				
Name:		Signature:		Date & Stamp:
Title:				